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Presidential Documents

Title 3—

The President

Proclamation 6475 of September 23, 1992

Gold Star Mother's Day, 1992

By the President of the United States of America
A Proclamation

Now that Marxist-Leninist regimes around the world have crumbled, now that dictators from Baghdad to Havana have found themselves isolated in a world that is growing freer by the day, one of the greatest risks we face as a Nation is that of forgetfulness. While we rightly celebrate improved prospects for international cooperation and peace, we must not forget that the preservation of freedom requires eternal vigilance and resolve. Only by remembering the lessons of the past can we ensure our liberty and security in the future; only by honoring the memory of those who fought and died for our country can we fully appreciate our way of life. One group of Americans who will never forget the price that has been paid for our freedom is the Gold Star Mothers, women whose sons and daughters have died in service to our country.

There is little that we can offer in consolation to America's Gold Star Mothers. Yet, while it is beyond our earthly power to alleviate their great loss, we can show these women that their children's sacrifices are remembered and appreciated, not only on occasions such as Memorial Day, but also throughout the year.

Every time we cast our ballot at the voting booth, every time we join in prayer at our place of worship, we Americans enjoy the liberty and self-government that have been preserved for us by the courage and sacrifices of others. Every time we say good night to our children and grandchildren, knowing that they need no longer fear the nightmare of global nuclear conflict, we enjoy the peace and security that have been attained by the blood of American patriots. So much that we cherish in our daily lives has been made possible by our fallen service members—truly, we cannot express our respect and gratitude often enough.

It is fitting that, in addition to honoring the memory of our fallen military personnel, we also salute the women who nurtured them. Through their children, our Nation's Gold Star Mothers have made a profound contribution to the United States and, yes, to the freedom of millions of people around the world. Today many Gold Star Mothers continue to serve our Nation through generous volunteer work in behalf of veterans, through efforts to promote civic education and patriotism among youth, and through countless other means of community service. On this occasion, we proudly acknowledge their courage and example and reaffirm America's commitment to promoting democracy and respect for human rights, which are the only sure foundation for lasting freedom, justice, and peace among nations.

The Congress, by Senate Joint Resolution 115 (June 23, 1936), designated the last Sunday in September as "Gold Star Mother's Day" and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 27, 1992, as Gold Star Mother's Day. I call on all government officials to display the United States flag on government buildings on this day. I also urge the American people to display the flag and to hold appropriate meetings in their homes, places of worship, or other suitable places, as a public expression of the sympathy and the respect that our Nation has for its Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

George Bush

[FR Doc. 92-23533
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Presidential Documents

Proclamation 6476 of September 23, 1992

National Disability Employment Awareness Month, 1992

By the President of the United States of America

A Proclamation

The United States has long been the world's leading champion of the rights of individuals, and it is only natural that we now serve in the forefront of efforts to promote equal opportunity for persons with disabilities. Since I signed the Americans with Disabilities Act (ADA) on July 26, 1990, scores of other nations have been motivated to reexamine the challenges faced by their citizens with disabilities. The ADA, which prohibits discrimination in employment, public accommodations, transportation, and communications, provides a model for people everywhere as it affirms our commitment to ensuring that Americans with disabilities are not excluded from our Nation's cultural and economic mainstream.

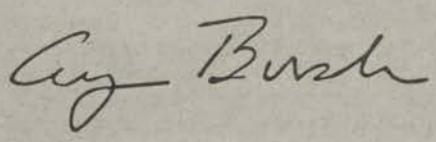
Ensuring equal opportunities for persons with disabilities is not only a serious moral and legal obligation, it is also good business sense. As we work to expand markets for U.S. goods and services and to strengthen America's competitiveness in an increasingly technological world, we must fully utilize our Nation's wealth of human capital. One-third of all Americans with disabilities who are of working age are currently employed. The other two-thirds constitute a vast, untapped source of knowledge, skills, and talent. In addition to being costly—today Americans spend more than $200 billion annually to support potentially productive people—such a waste of human ability stands in stark contrast to the American traditions of individual dignity and self-reliance and empowerment through opportunity and hard work. There are some 43 million Americans with disabilities in the United States, and the vast number of these individuals want very much to lead full, independent, and productive lives. To employ these determined candidates is to make a wise investment in our Nation's future.

As we work to achieve harmonious implementation of the Americans with Disabilities Act, we will open doors of opportunity for millions of people—thereby expanding the ranks of workers and consumers, which, in turn, generates productivity and profits for business while enabling individuals and families to pursue the American Dream. I congratulate the business and industry leaders and community leaders from all walks of life who are working together to implement the ADA, and I pledge the total cooperation of the Federal Government. Our continuing progress is testimony both to the fundamental vitality and fairness of our free enterprise system and to our abiding commitment to liberty and justice for all.

The Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of October of each year as "National Disability Employment Awareness Month." This month is a special time for all Americans to recognize the tremendous potential of persons with disabilities and to renew our commitment to equal opportunity for them, as for every citizen.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1992 as National Disability Employment Awareness Month. I call on all Americans to observe this month with appropriate programs and activities that affirm our determination to fulfill both the letter and the spirit of the 1990 Americans with Disabilities Act.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



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Presidential Documents

Proclamation 6477 of September 23, 1992

National Farm-City Week, 1992

By the President of the United States of America

A Proclamation

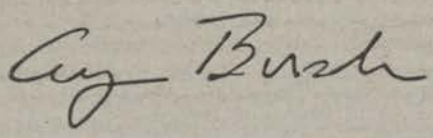
The tremendous productivity of America's farms has been a great blessing to this Nation and to millions of people around the world. As our leading industry, agriculture has fueled America's strength and progress while, at the same time, making the United States the world's largest exporter of food products and its most generous provider of food aid. The week that ends on Thanksgiving is, therefore, a fitting time to salute our farmers and all those Americans who work in partnership with them to bring the Lord's bounty from the fields to our families' tables.

While the United States enjoys a wealth of God-given resources, from hospitable climates to rich, fertile soils, the key to our agricultural productivity is the ingenuity and skill of our farmers and the fundamental efficiency and fairness of our free enterprise system. On average, one American farmer currently produces food and fiber for 129 people—a number that continues to increase. One of every three acres planted in this country produces crops for export. As a result of such efficiency and productivity, we in the United States can purchase our food with a smaller percentage of our disposable income than citizens of any other country. This enables us to use the remainder of our income to purchase other goods and services and to save and invest for the future. Together, these factors help the United States to maintain the highest standard of living in the world.

America's farmers are joined in their efforts by millions of other men and women who have, in a sense, put their hands to the plow in a competitive, market-based system that provides farmers with production supplies and related services, then processes, packages, and transports agricultural goods to retail markets across the United States and around the world. This system includes researchers in our Land Grant universities and private companies, who are developing ever-safer and more effective fertilizers, technologies, and pest control methods. It also includes specialists who ensure crop quality and manufacturers who transform raw materials into usable products, from breakfast cereals to grain-based alternative fuels. From wholesalers and distributors to local retailers, a vast network of men and women completes the partnership that begins in our rural communities and extends to our largest urban areas. For nearly 40 years now, we Americans have observed National Farm-City Week in celebration of this partnership and in grateful recognition of the more than 20 million Americans who make it work so well for all of us.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of November 20 through November 26, 1992, as National Farm-City Week. I encourage all Americans, in rural and urban communities alike, to join in recognizing the accomplishments of our farmers and all those hardworking individuals who cooperate in producing the abundance of agricultural goods that strengthen and enrich the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV-92-070FR]

Approval of 1992-93 Fiscal Year Expenses and Assessment Rate for the Marketing Order Covering Papayas Grown in Hawaii

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenses and establishes an assessment rate for the 1992-93 fiscal year (July 1-June 30) under Marketing Order No. 928. The expenses and assessment rate are needed by the Papaya Administrative Committee (committee) established under this marketing order to pay its expenses and collect assessments from handlers to pay those expenses. The action will enable the committee to perform its duties and the marketing order to operate.

EFFECTIVE DATE: July 1, 1992, through June 30, 1993.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone: (202) 720-5331.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 928 (7 CFR part 928) regulating the handling of papayas grown in Hawaii, hereinafter referred to as the marketing order. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, papayas grown in Hawaii are subject to assessments. It is intended that the assessment rate herein will be applicable to all assessable papayas during the 1992-93 fiscal year, beginning July 1, 1992, through June 30, 1993. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this final rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 120 handlers of Hawaiian papayas subject to regulations under the marketing order covering papayas grown in Hawaii and about 345 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

This marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year shall apply to all assessable papayas handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The committee members are handlers and producers of Hawaiian papayas. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the expected pounds of assessable papayas shipped. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The annual budget and assessment rate are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

A proposed rule concerning the 1992-93 budget was published in the **Federal Register** (57 FR 429271, July 14, 1992). Comments on the proposed rule were invited from interested persons until July 24, 1992. No comments were received.

The Papaya Administrative Committee (committee) met on April 30, 1992, and recommended a 1992-93 budget with expenses of $823,450 and an assessment rate of $0.0085 per pound of assessable papayas shipped. Eight members voted in favor of the 1992-93

expenses and assessment rate, while one member voted "no" and one member abstained, because they favored lower assessment rate. The 1992-93 budget is similar in scope to the one approved for 1991–92. Budgeted expenses for 1991–92 totaled $746,650, while the assessment rate was $0.0085.

The 1992-93 budget contains $368,450 for program administration, $410,000 for advertising and promotion, and $45,000 for research and development. In comparison, budgeted expenses for 1991–92 were $336,650 for program administration, $400,000 for advertising and promotion, and $10,000 for research and development.

Program income for 1992–93 is expected to total $831,660, with assessment income estimated at $552,500, based on projected shipments of 65,000,000 pounds of assessable papayas. Other income includes $200,000 in promotional grants from the Hawaii Department of Agriculture, $63,360 from the USDA's Foreign Agricultural Service, $7,800 from the Japan Inspection Program, and $8,000 from miscellaneous sources including interest. Projected 1992–93 income over expenses ($8,210) will be placed in the committee's operational reserve. This reserve is projected at $72,301 on June 30, 1993, an amount well within the maximum authorized under the marketing order.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) 1992–93 season Hawaiian papayas are currently being shipped to market; (2) this action must be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) the 1992–93 fiscal year for this marketing order began on July 1, 1992, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable Hawaiian papayas handled during the fiscal year; (4) handlers are aware of this action which was recommended by the committee at a public meeting, and they will need no additional time to comply with these requirements; (5) the committee's financial reserves are expected to be depleted early in the 1992-93 season; and (6) the proposed rule provided a 10-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

2. New § 928.222 is added to read as follows:

Note. This section will not appear in the annual Code of Federal Regulations.

§ 928.222 Expenses and assessment rate.

Expenses of $823,450 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.0085 per pound of assessable papayas is established for the fiscal year ending June 30, 1993. Any unexpended funds from the 1992–93 fiscal year may be carried over as a reserve.

Dated: September 18, 1992.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–23275 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 959

[Docket No. FV–92–096IFR]

Onions Grown in South Texas; Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures under Marketing Order No. 959 for the 1992–93 fiscal period (August 1, 1992, through July 31, 1993). Authorization of this budget enables the South Texas Onion Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning August 1, 1992, through July 31, 1993. Comments received by October 26, 1992, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone 512–682–2833, or Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in South Texas. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action authorizes expenditures for the 1992–93 fiscal period (August 1, 1992, through July 31, 1993). This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the

order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 47 producers of South Texas onions under this marketing order, and approximately 34 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of South Texas onion producers and handlers may be classified as small entities.

The budget of expenses for the 1992–93 fiscal period was prepared by the South Texas Onion Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget.

The committee, in a mail vote which was completed on July 3, 1992, unanimously recommended a 1992–93 budget of $100,000 for personnel, office, and travel expenses, the same as last year. The assessment rate and funding for the research and promotion projects will be recommended at the Committee's organizational meeting this fall. Funds in the reserve as of June 30, 1992, estimated at $349,822, were within the maximum permitted by the order of two fiscal periods' expenses. These funds will be adequate to cover any expenses incurred by the Committee prior to the approval of the assessment rate.

Since no assessment rate is being recommended at this time, no additional costs will be imposed on handlers. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The fiscal period began on August 1, 1992, and the Committee needs to have approval to pay its expenses which are incurred on a continuous basis; (2) this action is similar to that taken at the beginning of the 1991–92 fiscal period; and (3) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 959.233 is added to read as follows:

§ 959.233 Expenses.

Expenses of $100,000 by the South Texas Onion Committee are authorized for the fiscal period ending July 31, 1993. Unexpended funds may be carried over as a reserve.

Dated: September 18, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–23274 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1703

Rural Economic Development Loan and Grant Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends its regulation on the Rural Economic Development Loan and Grant Program. Policies, requirements, and procedures contained in this regulation implement a rural economic development zero-interest loan and grant program established by section 313 of the Rural Electrification Act of 1936, as amended. The program provides funds to REA borrowers for the purpose of promoting rural economic development and job creation projects.

DATES: *Effective date:* This regulation is effective October 26, 1992.

Applicability dates: This regulation is applicable as to loans on October 26, 1992. This regulation will be applicable as to grants at a later date.

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, telephone number (202) 720–9552.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) Will not have any retroactive effect; and (3) Will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act

This action does not fall within the scope of the Regulatory Flexibility Act.

National Environmental Policy Act Certification

The Administrator has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Intergovernmental Review

This program is subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials with the exception of applications for project feasibility studies. A notice informing the public of the intergovernmental review coverage was published in the **Federal Register** on March 20, 1989, at 54 FR 11426.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.854, Rural Economic Development Loan and Grant Program.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this final rule have been approved by OMB under control number 0572–0090. Comments concerning these requirements should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, USDA Desk Officer, room 3201, New Executive Office Building, Washington, DC 20503.

Background

On February 15, 1989, REA published the final rule, 7 CFR 1709, subpart B, in the **Federal Register** (54 FR 6867) that implemented the Rural Economic Development Loan and Grant Program, also known as the Cushion of Credit Payments Program, established by section 313 of the Rural Electrification Act of 1936, as amended (Act). This program provides funds to Act borrowers for the promotion of rural economic development and job creation projects. On September 27, 1990, REA changed the designation of this rule from 7 CFR part 1709 to part 1703 (55 FR 39393). On July 30, 1991, REA published a proposed rule at 56 FR 36014 to revise the Rural Economic Development Loan and Grant Program.

Comments

All of the comments REA received on the proposed rule were taken into consideration in preparing the final rule. REA received comments from the following organizations:

(1) Basin Electric Power Cooperative, Bismark, North Dakota.

(2) Central Electric Power Cooperative, Inc., Columbia, Georgia.

(3) Central and South West Corporation.

(4) Consumers Power, Jackson, Michigan.

(5) East River Electric Power Cooperative, Madison, South Dakota.

(6) Edison Electric Institute, Washington, DC.

(7) Electric Power Associations of Mississippi, Jackson, Mississippi.

(8) The Empire District Electric Company, Joplin, Missouri.

(9) National Rural Electric Cooperative Association, Washington, DC.

(10) National Telephone Cooperative Association, Washington, DC.

(11) North Dakota Association of Rural Electric Cooperatives, Mandan, North Dakota.

(12) Otter Tail Power Company, Fergus Falls, Minnesota.

(13) SCANA Corporation, Columbia, South Carolina.

(14) Sequachee Valley Electric Cooperative, South Pittsburg, Tennessee.

(15) Slope Electric Cooperative, Inc., New England, North Dakota.

(16) United States Department of Agriculture, Office of the Inspector General, Washington, DC.

(17) United States Department of the Treasury, Financial Management Service, Washington, DC.

(18) United States Environmental Protection Agency, Washington, DC.

(19) United States Telephone Association, Washington, DC.

(20) UtiliCorp United, Kansas City, Missouri.

(21) West River Electric Association, Inc., Rapid City, South Dakota.

The comments will be addressed in the following paragraphs by first discussing REA's modifications to the proposed rule and then discussing the remaining suggested modifications. The modifications will be discussed in the order in which they appear in the final rule.

Many sections of the proposed rule have been rearranged and renumbered to improve the structure of the rule. For example, the section on documenting the evaluation and selection of applications has been moved to immediately following the application review section.

REA has added three policy statements that further clarify current policy for this program (§ 1703.11). First, it is REA's policy to use the Rural Economic Development Loan and Grant Program to promote projects that will result in long-term economic development in rural areas and thereby lead to higher levels of income for rural citizens. Second, it is REA's policy to direct funds to projects which will primarily benefit those rural areas that are experiencing the greatest economic hardship as determined by the selection criteria in this rule. Third, it is REA's policy to encourage economic development in rural areas and job creation projects without regard to service area.

In response to public comments, the definition of "electric or telephone purpose" has been modified. The revised definition provides an exclusion for any funding under this subsection for any facilities which the Administrator of REA or Governor of the Rural Telephone Bank is authorized to finance under sections 2, 4, 5, 201, 305 and 408 of the Act. It also includes any purpose characterized as furnishing, generating, or transmitting electric energy or other activities involved in providing electricity or is characterized as providing telephone service. In the proposed rule, community antenna television systems or facilities intended exclusively for educational purposes were excluded from the definition for REA electric borrowers. An organization suggested that REA modify the rule to avoid dissimilar treatment of electric and telephone borrowers. To avoid dissimilar treatment, REA has deleted the exclusion for REA electric borrowers from this definition and explicitly prohibits funding for any community antenna television system or facility in section 1703.20(a)(7).

The defined term "technical assistance" has been replaced with "project feasibility studies." The change was made to be consistent with the term used in a notice REA published on intergovernmental review in the **Federal Register** on March 20, 1989, at 54 FR 11426. The use of "technical assistance" in this program will refer to advice and guidance such as business planning.

There were several comments on the section pertaining to limitations on an owner of an REA borrower being the owner of the rural development project and on situations resulting in conflicts of interest. REA considered these comments and has made a few changes

in the language. The Administrator must balance the worthiness of the project against any conflicts of interest in the project. Full disclosure will permit the Administrator to make an informed decision.

To clarify the conflict of interest provisions and the limitations on the use of funds in the proposed rule, a provision has been added under section 1703.20, Ineligible uses of zero-interest loans and grants, regarding the prohibited use of funds to pay the salaries of any employee or owner of the REA borrower, its subsidiaries, or its affiliates. The provision in the proposed rule covering the use of REA funds to purchase equipment and real property from the REA borrower has been modified. Control over these transactions will be exercised through the conflict of interest provision in this section which requires full disclosure to the Administrator.

The section establishing a preference for providing borrowers zero-interest loans rather than grants has been deleted because the appropriation bill provides for a certain amount of funds for zero-interest loans and the associated subsidy for these loans under the "Federal credit reform" provisions.

Under section 1703.28, Maximum and minimum sizes of a zero-interest loan or grant application, the language has been modified to establish the maximum size of an application for assistance that will be considered for funding during a fiscal year as three percent of the projected total amount that will be available for the program during that fiscal year, rounded to the nearest $10,000. This modification to the proposed rule was made to avoid the necessity of going through the lengthy rulemaking process to change the maximum size of an application. It is also consistent with the public's suggestion that the maximum size should be increased to a level considerably higher than the $100,000 level in the current rule given the current amount of funding available to this program. REA has placed upper and lower limits on the size regardless of the percentage calculation. The maximum size of an application may not be lower than $200,000 nor greater than $400,000. Currently, it is anticipated that the maximum amount per application for the remainder of Fiscal Year 1992 after the effective date of this rule would be $400,000. The three percent level means that a minimum of 34 applications would be selected in any given fiscal year. In selecting this percentage, REA balanced the desire to finance a significant number of projects given the limited amount of funds available for the program with the agency's desire to increase the maximum amount above current limit of $100,000. The amount of funds available to this program has increased since the $100,000 level was established in 1989. The Administrator's determination based on this calculation will be published by notice in the **Federal Register**. The minimum amount of an application remains unchanged at $10,000.

The section on the description of the application has been divided into four sections, §§ 1703.34 through 1703.37.

Several comments suggested that REA rearrange and regroup the selection factors. In response, REA has rearranged and clarified the provisions in section 1703.46 covering the process of analyzing and evaluating applications under consideration. This clarification is based on REA's basic review process in which the Administrator makes an initial determination whether a project meets feasibility standards and program goals. A project that has a low probability of being a viable operation or a project that does not promote economic development in rural areas and/or job creation as described in this rule should not receive points and should not be considered for selection. Under REA's current process, which is not based on a specific number of points for each factor, a project that has a low probability of being successful or did not fulfill the purpose of this program would not be selected by the Administrator. Similarly, under a point system, the Administrator must consider whether a project will be a viable operation or promote economic development in rural areas and/or job creation before points are awarded for the selection factors and the application is ranked.

The selection factors have been regrouped into two sections, 1703.46(g) and (h). First, the Administrator considers the nature of the project and three other factors related to the promotion of economic development in rural areas and job creation. Applications receiving a minimum number of points, or falling within the top 75 percent of all applications, on the basis of these four factors, are then evaluated on the basis of the selection factors in the second group. The second group contains factors such as supplemental funds, income levels, and cushion of credit payments. Under this modified system, an application could not be selected on the basis of factors such as supplemental funds or income levels without regard to the nature of the project.

This two-stage process includes a method to compensate for the variety of applications that will be on file and under consideration at any particular time. First, all applications being considered could score high under the first group of selection factors and be evaluated under the second group of selection factors. There is no cutoff point at any particular percentage level if all applications score relatively high. Second, regardless of the number of points received by applications on file and under consideration, at least 75 percent of the applications will be evaluated under the second group of selection factors.

The public discussed the types of projects that should be financed under this program given the limited amount of funds. REA has added language that specifically addresses these matters. The rule requires an application for a project that will provide recreational facilities to present a convincing case that the project would be an integral part of a tourism industry in the community or region. The application must include support, such as regional studies, that shows the impact of the recreational facilities on the economy of the rural area. Projects that either do not meet this requirement or are developed to provide recreational facilities for the residents of an area would not receive points. These provisions reflect a lower priority given to funding recreational facilities versus other projects given the limited funds in this program. Similar priorities for this program explain the provisions dealing with residential dwellings, entertainment television, land transfers or land speculation, and personal vehicles. In the proposed rule, these were not considered projects that would promote rural economic development and/or job creation. In the final rule as in the proposed rule, if a project does not promote rural economic development and/or job creation, it will not be selected. In this same section, a provision was added which provides that points will not be given to projects that are primarily to finance the purchase of an established business or operation. This was added to the final rule to clarify that such a project would primarily transfer ownership rather than promote economic development or job creation.

In response to public comments on the proposed rule, the change in population in the county where the project will be located over a two-year period has been added as a selection factor. REA considered many different economic measurements before deciding that this factor is the best additional measure of

economic conditions at the county level. The change in population was analyzed over many different periods and the two-year period appeared to be the most appropriate.

A selection factor that REA retained in the final rule is support for the program provided by cushion of credit payments. The use of both absolute dollar amounts and percentage levels for awarding points under this factor was designed to accommodate both large and small REA borrowers. As REA has discussed in the preamble to the final rule published on February, 15, 1989, at 54 FR 6867, points are provided for cushion of credit payments to encourage support for the program. The REA borrower's cushion of credit payments result in funds being allocated to this program. A significant number of points are awarded for even a modest level of cushion of credit payments.

A provision limiting the number of applications selected for a particular project has been added in section 1703.46. Since numerous applications on file for the same project would score the same number of points, this provision is necessary for the benefit of all REA borrowers. The limitation of one selected application during a selection period has been added because some of the selection factors are based on the a borrower's situation and there could be a tendency for all of a particular REA borrower's applications to score high on these factors. In addition, this limitation tends to spread scarce funds to many different areas of the country.

A clarification has been made regarding the Administrator's ability to select an application receiving fewer points than another application if there were insufficient funds during a period to select the higher ranked application. As suggested in one of the comments, the Administrator may ask the REA borrower that submitted the higher-ranked application if it desires to reduce the amount of its application to the amount of funds available. The reduction in the amount of the application may require additional supplemental funds to ensure a successful project. The Administrator would need to re-analyze the project based on information the REA borrower provided to ensure that the project is still feasible.

The public discussed the ranking of feasibility studies. The final rule allows the Administrator to select the highest ranking applications to finance project feasibility studies. This simply recognizes that applications for project feasibility studies will not score as many points under the factors as other projects. This method is tantamount to ranking applications for project feasibility studies separately. Another approach, which REA did not choose to adopt, is to create separate selection factors for applications for project feasibility studies. Many of the same factors would be repeated and it would appear to serve no additional purpose.

A provision has been added that provides for the highest ranking application during each selection period requesting less than 5 percent of the total project costs to be considered with the applications requesting 5 percent or more of total project costs. This is consistent with the overall preference for projects that have a meaningful level of REA funds yet provides an opportunity for the highest ranked application requesting less than 5 percent of total project costs to be considered.

Two organizations suggested that REA delete the language in section 1703.58, "Post selection period" that says the selection is not binding on the Administrator. They say the discretion for the Administrator to "change his mind" should not be in the rule even though it is not likely to occur. Another says the Administrator has the right to place conditions on the advance of REA loan funds but that it could result in serious credibility problems if a selected project were simply "deselected." The language in the proposed rule was based on a distinction between the selection and the approval that was designed to expedite the process of advancing REA funds. Under the procedures in the proposed rule, the approval of an application occurs when the letter of agreement is executed. Prior to that time, the REA borrower might have had to submit additional information, such as environmental information, that must be considered prior to approval. As the two organizations correctly assumed, it was not intended to permit the Administrator merely to "change his mind." REA has clarified the manner in which these matters are handled in the final rule. The rule has been amended to say that the advance of funds is contingent on the borrower and the project complying with certain conditions and requirements.

Under section 1703.61, "Disbursement of zero-interest loan and grant funds", REA has modified the language requiring disbursement of funds within a certain time period. Similarly, under section 1703.66, "Review and other requirements", REA has added language covering the use of funds by the ultimate recipient within a certain time period and the requirement for adequate documentation of the uses of pass-through loan funds. These changes reflect current REA procedures.

REA received numerous comments on the matter of tying the receipt of rural development assistance from REA borrowers to the acceptance of electric or telephone service. All comments and suggestions were considered. One REA electric borrower believes it is appropriate to restrict funds under this program to projects that will enhance the future sale of electricity to the REA borrower which received the REA zero-interest loan or grant. Another REA electric borrower believes that if an REA borrower is working to promote economic development, then it needs the additional electric load and diversity a business brings to its system.

The investor-owned utilities, their trade organization, and their representatives oppose tying the receipt of rural development assistance from REA borrowers to the acceptance of electric or telephone service. In summary, they believe: (1) Tying creates conflicts of interest; (2) Congress did not intend that access to rural development assistance be tied to electric sales; (3) Tying is likely to interfere with the Congressional goals of building community infrastructure and creating new jobs; (4) Tying improperly restrains competition, and (5) Tying threatens REA security interest in its loans and loan guarantees because of potential damage awards. The investor-owned utilities, their trade organization, and their representatives proposed numerous provisions in the regulation that would prohibit tying.

Rather than commenting on the each of these points or adopting any of the proposed language, REA has decided to stay with its original policy on this matter. REA said in the preamble to the final rule published on February 15, 1989 (54 FR 6867), that the rule implementing the Rural Economic Development Loan and Grant Program was written to encourage economic development in rural areas without regard to service territory. At that time, REA did not put specific language in the rule but rather said the Administrator would use his discretion to select projects that meet this objective. Since that time, REA's policy has remained consistent and is unchanged.

REA believes that the operation of the program for the past several years and the projects that have been selected demonstrate REA's commitment to this policy. On several occasions, REA has required an REA borrower to delete a requirement in its agreement with the ultimate recipient to take service for the term of the zero-interest loan. It is true

that the REA borrower that relends the REA zero-interest loan proceeds bears the risk that the loan might not be repaid. Some might argue that this risk is justification for a tying arrangement. REA has developed a program where the REA borrower assesses the risks of the project and the likelihood of the full repayment in determining whether to make the loan. The REA borrower may also transfer the repayment risk. The receipt of electric or telephone business from the ultimate recipient of the loan is separate from this risk assessment and is not a compensation for the risk. In this manner, the REA borrower is both a local promoter of economic development and a conduit of low cost government funds to rural development projects. With respect to risk assessment and financing local projects, it has, in essence, taken on attributes of a local bank. REA has explicitly stated its current position on this matter by adding a provision under section 1703.21, "Limitations on the use of zero-interest loan and grant funds" that prohibits an REA borrower from conditioning the receipt of the proceeds of a zero-interest loan or grant with the requirement to take electric or telephone service from the REA borrower.

There were other suggestions made that were carefully considered but not adopted in the final rule. Two telephone trade organizations believe that Section 302(c) of the Act (7 U.S.C. 932) requires the Administrator to separate the rural economic development subaccount into electric and telephone subaccounts and that funds appropriated for this program should be allocated to separate electric and telephone subaccounts on the basis of their size. REA does not interpret Section 302(c) of the Act as requiring the separation, and believes that based upon its experience in administering the program to date, such a separation would not be desirable. Therefore, REA has decided not to separate the subaccount into electric and telephone subaccounts.

The rule retains the language permitting the Administrator to allocate funds between applications from REA electric and telephone borrowers which will ensure that funding is spread between borrowers from both programs.

One organization believes the prohibition on the use of REA zero-interest loan and grant funds for electric and telephone operations would retard the opportunities for economic development in rural areas and job creation. This provision is intended to protect the integrity and reputation of the program. For example, a building financed with a zero-interest loan or grant that was to be used for a particular rural economic development project should not be used instead for the REA borrower's normal service operations. The use of funds in this manner would result in no benefit for the intended rural development purpose. The REA borrower has the option of using its own funds or electric or telephone financing programs under the Act for purposes that are considered part of its electric or telephone operations.

Two telephone trade organizations believe the provision in Section 1703.46, Documenting the evaluation and selection of applications for zero-interest loans and grants, which permits the Administrator to decline to select an application based on the management and financial situation of the REA borrower, goes beyond the need of REA to be assured of loan repayment and one organization believes this is "... tantamount to the back-door implementation of a general funds policy...." It was in no manner REA's intention to implement a general funds policy prohibited by the Act. The purpose of the language was to specifically mention items the Administrator would consider in determining both the management and financial situation of the REA borrower rather than merely refer broadly to the borrower's current condition and its ability to repay the loan.

The telephone trade organizations also do not believe the language permitting the Administrator to decline to select an application based on a determination that limitations under state laws will lessen the likelihood of repayment of the REA loan should be in the final rule. REA has considered their comments and decided this discretion would be appropriate in the situation described in the rule and is in the best interests of the program.

One organization recommended limiting the number of outstanding rural development loans for each REA borrower to an amount equal to a certain percentage of its net plant. REA believes that there are many different measures of the financial well-being of a borrower in addition to the ratio of outstanding rural development loans to total utility plant. For this reason, REA believes it is more appropriate to consider the financial situation of the REA borrower on a case-by-case basis rather than selecting one ratio.

One organization did not want any restriction on the number of loans or grants to a particular state during a fiscal year. The limitation on the number of selections in a particular state is designed to ensure a broad distribution of the limited amount of funds available each year across the rural areas of the country. This limitation, if used, would simply prevent a high percentage of the total amount of funds from being used in a few states.

There were several comments on the requirement for a minimum amount of supplemental funds. Some believe it should be deleted and others believe it should be retained. REA has decided to retain the requirement for a modest amount of supplemental funds. As stated in the preamble to the proposed rule, it is important to have other funds supplement REA's financing to spread the benefit of limited funds, increase the probability of success, and select projects that others are willing to finance. There were a few comments with regard to the owner's equity section. REA has decided to retain the proposed language because owner's equity increases the probability of a successful project.

REA will publish for public consideration a separate proposed rule containing grant approval procedures to be used in circumstances when Congress allocates a certain amount of the total funds made available for this program during a fiscal year for grants.

In a separate notice, the Administrator is publishing a determination that the maximum amount of an application for a zero-interest loan will be $400,000 upon the effective date of this rule.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

For reasons set forth in the preamble, REA hereby amends 7 CFR chapter XVII, part 1703, as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for 7 CFR part 1703 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

2. Subpart B of part 1703 is revised to read as follows:

Subpart B—Rural Economic Development Loan and Grant Program

Sec.

1703.10 Purpose.
1703.11 Policy.
1703.12 Definitions.
1703.13 Source of funds.
1703.14 Disposition of funds in the subaccount.

Sec.
1703.15 [Reserved]
1703.16 Eligibility.
1703.17 Uses of zero-interest loans and grants.
1703.18—1703.19 [Reserved]
1703.20 Ineligible uses of zero-interest loans and grants.
1703.21 Limitations on the use of zero-interest loan and grant funds.
1703.22 [Reserved]
1703.23 Supplemental funds requirements for zero-interest loans and grants.
1703.24 [Reserved]
1703.25 Significance of REA financing to the total project cost.
1703.26 [Reserved]
1703.27 Owner's equity in the project.
1703.28 Maximum and minimum sizes of a zero-interest loan or grant application.
1703.29 Terms of zero-interest loan repayment.
1703.30 Approval of agreements.
1703.31 Transfer of employment or business.
1703.32 Environmental requirements.
1703.33 Other considerations.
1703.34 Applications.
1703.35 Section of the application covering the selection factors.
1703.36 Section of the application covering the project description.
1703.37 Section of the application covering the environmental impact of the project.
1703.38—1703.44 [Reserved]
1703.45 Review and analysis of applications.
1703.46 Documenting the evaluation and selection of applications for zero-interest loans and grants.
1703.47—1703.57 [Reserved]
1703.58 Post selection period.
1703.59 Final application processing and legal documents.
1703.60 [Reserved]
1703.61 Disbursement of zero-interest loan and grant funds.
1703.62—1703.65 [Reserved]
1703.66 Review and other requirements.
1703.67—1703.99 [Reserved]

Subpart B—Rural Economic Development Loan and Grant Program

§ 1703.10 Purpose.

(a) This subpart sets forth REA's policies and procedures for making zero-interest loans and grants to borrowers in accordance with the cushion of credit payments program authorized in section 313 of the Act (7 U.S.C. 940c).

(b) The zero-interest loans and grants are provided for the purpose of promoting rural economic development and job creation projects.

§ 1703.11 Policy.

(a) It is REA's policy that borrowers use the Rural Economic Development Loan and Grant Program to promote projects that will result in a sustainable increase in the productivity of economic resources in rural areas and thereby lead to a higher level of income for rural citizens.

(b) It is REA's policy that borrowers promote economic development in rural areas and job creation projects that:

(1) Are based on sound economic and financial analyses; and

(2) Take a long-term perspective.

(c) It is REA's policy to direct the funds under this program to projects which are located in, or will primarily benefit, those rural areas that are experiencing the greatest economic hardship.

(d) It is REA's policy to encourage economic development in rural areas and job creation projects without regard to service area.

(e) It is REA's policy to encourage borrowers to make cushion of credit payments.

(f) It is REA's policy to maintain liaisons with officials of other Federal, state, regional and local rural development agencies to coordinate this program with other rural economic development programs.

§ 1703.12 Definitions.

Act—the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

Administrator—the Administrator of the Rural Electrification Administration or the Administrator's designee.

Approved purpose—a purpose that the Administrator has specifically approved in the letter of agreement covering the use of the REA zero-interest loan and/or grant funds provided to the borrower.

Borrower—an entity that has outstanding REA and/or Rural Telephone Bank (RTB) loan(s) or loan guarantee(s) for an electric or telephone purpose under the provisions of the Act.

Business incubator—a facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services or other support. The business incubator program, however, does not necessarily have to involve the sharing of premises.

Cushion of credit payment—a voluntary unscheduled payment made after October 1, 1987, on an REA note, which is credited to the cushion of credit account of a borrower.

Demonstration Project—a project for which the owner agrees in writing to provide REA, if requested, with detailed information on the steps it takes in organizing and operating the project, will permit REA and REA's guests to make reasonable visits to the project, and honor any other reasonable REA request to disseminate information on the project. Examples of information include a description of incorporation procedures, types of financing obtained, permits required by governments, amount of time required for various stages of the project, sources of technical assistance from government programs, private foundations or trade organizations, any experiences or lessons that the owner wishes to share with the public and other information which will assist REA in promoting similar projects. It will not require the disclosure of trade secrets or proprietary techniques.

Electric or telephone purpose—a purpose that:

(1) The Administrator or Governor of the RTB is authorized to finance under sections 2, 4, 5, 201, 305, and 408 of the Act; or

(2) Is characterized as furnishing, generating or transmitting electric energy or other activities involved in providing electricity, or is characterized as providing telephone service. It will include electric and telephone facilities and equipment used in connection with providing such a service. It will not include a relatively insignificant amount of customer premises equipment, as determined by the Administrator.

Job creation—creation of jobs in rural areas. This includes the implementation of a project in close enough proximity to rural areas so that it is likely that the majority of the jobs created will be held by rural residents.

Letter of agreement—a legal document executed by the Administrator and the borrower that contains certain terms, conditions, requirements and understandings applicable to the zero-interest loan and/or grant, as determined by the Administrator.

Letter of credit—a commitment from a financial institution satisfactory to the Administrator to honor a draft drawn on the REA borrower should the REA borrower fail to pay on a zero-interest loan.

Pass-through-grant—a grant that the borrower makes to another entity that will own or undertake the project using the proceeds of the REA grant.

Pass-through-loan—a loan that the borrower makes to another entity that will own or undertake the project using the proceeds of the REA zero-interest loan.

Project—an undertaking that develops the economy of a rural area or results in job creation. As used in subpart B, the term "project" includes both direct undertakings by borrowers as well as those sponsored by other parties using the proceeds of pass-through-loans or

pass-through-grants. It is the component or phase of the undertaking for which the borrower is requesting REA funds, as determined by the Administrator.

Project feasibility studies—studies, analyses, designs, reports, manuals, guides, literature, or other forms of creating and/or disseminating information for use in evaluating or developing a proposed project. For example, it would include market research and environmental studies.

REA—the Rural Electrification Administration, an agency of the United States Department of Agriculture.

Reasonable loan servicing charges—charges for expenses the borrower incurs to service a loan provided to another entity unaffiliated with the borrower using the proceeds of the REA zero-interest loan. The charges over the life of the loan for routine loan servicing expenses must not exceed an amount equal to the sum of one percent per year of the outstanding principal on the first day of each year on the borrower's REA zero-interest loan. The charges for extraordinary expenses associated with collection of delinquent payments or other similar expenses must receive the prior approval of the Administrator.

Rural area—a rural area as defined in section 13 of the Act.

Rural economic development account—a federally insured account into which the borrower deposits any advances of zero-interest loan funds from REA until the borrower disburses the funds.

Significant stockholder—an owner or holder of five percent or more of the common stock (or shares) or five percent or more of the preferred stock (or shares) of the REA borrower.

Subaccount—the rural economic development subaccount created by Section 313 of the Act.

Tribal government—The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in 43 U.S.C. 1602) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

§ 1703.13 Source of funds.

Funds provided under this program come from interest differential credits to the subaccount and appropriated amounts made available to the subaccount.

§ 1703.14 Disposition of funds in the subaccount.

Zero-interest loans and grants will be made during each fiscal year to the full extent of the amounts held in the subaccount subject only to limitations imposed by law. For administrative purposes, the Administrator will make a determination of the fiscal year-end amount held in the subaccount as of a date prior to, but as near as practicable to, the end of the fiscal year.

§ 1703.15 [Reserved]

§ 1703.16 Eligibility.

Zero-interest loans and grants may be made to any borrower that is not delinquent on any outstanding Federal debt or in bankruptcy proceedings. However, a zero-interest loan or grant will not be made to a borrower during any period in which the Administrator has determined that no additional financial assistance of any nature should be provided to the borrower pursuant to any provision of the Act. The determination to suspend eligibility for assistance under this subpart will be based on one or more of the following factors:

(a) The borrower's demonstrated unwillingness to exercise diligence in repaying REA loans or loan guarantees that results in the Administrator being unable to find that a loan, or loan guaranteed by REA, would be repaid within the time agreed;

(b) The borrower's demonstrated unwillingness to meet requirements in REA's legal documents or regulations; or

(c) Other actions on the part of the borrower that thwart the achievement of the objectives of the REA program.

§ 1703.17 Uses of zero-interest loans and grants.

(a) Zero-interest loans and grants must be used exclusively to promote rural economic development and/or job creation projects, including, but not limited to, project feasibility studies, start-up costs, business incubator projects, and other reasonable expenses for the purpose of fostering rural economic development.

(b) The Administrator will give preference to providing funds under this subpart for projects other than business incubator projects to the extent funds are available to borrowers for business incubator projects from a rural business incubator fund administered by the Administrator in accordance with section 502 of the Act (7 U.S.C. 950aa–1).

§§ 1703.18—1703.19 [Reserved]

§ 1703.20 Ineligible uses of zero-interest loans and grants.

(a) Zero-interest loans and grants must not be used:

(1) To fund or assist projects of which any director, officer, general manager or significant stockholder of the borrower, or close relative thereof, is an owner, or which would, in the judgment of the Administrator, create a conflict of interest or the appearance of a conflict of interest. The borrower must disclose to the Administrator information regarding any conflict of interest, potential conflict of interest or any appearance of a conflict of interest. The Administrator will determine whether there is a conflict of interest or whether any potential conflict of interest or appearance of a conflict of interest will detrimentally affect the program. A borrower organized as, or consisting of a cooperative, widely held mutual corporation, tribal government, municipal power corporation, public power district, or a similar widely held organization would ordinarily be able to own or manage a project operated on either a for-profit or not-for-profit basis. A borrower organized as a closely held, for-profit corporation with more than 5 percent of its stock held by one legal person, its subsidiary or an affiliate, would ordinarily be able to own or manage a project operated on a not-for-profit basis only;

(2) For any costs incurred on the project:

(i) Prior to receipt of the borrower's completed application by REA during an application period unless the Administrator has specifically approved such usage in writing; or

(ii) For site development, the destruction or alteration of buildings, or other activities that would adversely affect the environment or limit the choice of reasonable alternatives prior to satisfying the requirements of § 1703.32;

(3) By the borrower to purchase or lease any real property, materials, equipment, or services from its subsidiary, an affiliate, or significant stockholders, officers, managers or directors of the borrower, or close relatives thereof, where the purchase or lease has not been fully disclosed to the Administrator and received the Administrator's prior written approval;

(4) By the recipient of a pass-through-loan or pass-through-grant to purchase or lease any real property, materials, equipment, or services from the borrower, its subsidiary, an affiliate of the borrower, or significant stockholders, officers, managers or directors of the borrower, or close relatives thereof, where the purchase or lease has not been fully disclosed to the Administrator and received the Administrator's prior written approval;

(5) To pay off existing indebtedness incurred prior to receipt of the

borrower's completed application by REA or for refinancing or repaying a loan made under the Act or a program administered by the Administrator;

(6) For any electric or telephone purpose, as determined by the Administrator;

(7) For any community antenna television systems or facilities;

(8) For the borrower's electric or telephone operations or for any operations affiliated with the borrower unless the Administrator has specifically informed the borrower in writing that the operations are part of the approved purposes;

(9) To pay the salaries of any employee or owner of the borrower, its subsidiaries, or affiliates. This restriction does not prohibit the use of loan or grant funds for printing and similar costs for project feasibility studies it has prepared, commissioned or purchased if specifically approved by the Administrator;

(10) For proposed projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*); or

(11) For anything other than an approved purpose.

(b) [Reserved]

§ 1703.21 Limitations on the use of zero-interest loan and grant funds.

(a) A borrower may not charge interest for the use of the proceeds of the zero-interest loan provided under this program; however, it may charge reasonable loan servicing charges, reasonable legal fees involved in providing the REA funds to the recipient, and the amount paid for an irrevocable letter of credit made payable to REA and issued on behalf of the borrower that guarantees repayment of an REA zero-interest loan, all as determined by the Administrator. A borrower may require the recipient of a pass-through-loan to provide and/or obtain adequate security for the zero-interest loan funds.

(b) A borrower must calculate any costs to charge in connection with the use of grant funds under this program for the project and must temporarily deposit the grant funds in accordance with 7 CFR parts 3015, Uniform Federal Assistance Regulations, and 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, as appropriate.

(c) A borrower may not make a profit from any zero-interest loan or grant provided from the subaccount, with the exception of the $500 interest income exclusion in paragraph (d) of this section.

(d) The borrower must temporarily deposit the zero-interest loan funds into a separate federally insured account called the Rural Economic Development Account unless the funds will be disbursed within two months. However, all interest earned on temporarily deposited funds in excess of $500 per 12-month period must be used for approved purposes or returned to REA. The $500 exemption is to avoid placing additional administrative burdens on the borrower for funds that were only briefly deposited in an interest-bearing account prior to disbursing them.

(e) The borrower may not condition the receipt of the proceeds of a zero-interest loan or grant under this subpart with the requirement that the recipient take electric or telephone service from the borrower.

§ 1703.22 [Reserved]

§ 1703.23 Supplemental funds requirements for zero-interest loans and grants.

The Administrator will not select an application unless the project will receive supplemental funds in an amount at least equal to 20 percent of the REA zero-interest loan and grant to be provided to the project, as determined by the Administrator. Supplemental funds as used in this section may come from the project owner in the form of equity funds, private sources, state and local government sources, other Federal Government sources, the borrower or other sources. Only supplemental funds that will be provided to the project after the date REA receives the borrower's completed application may be used to satisfy this requirement. Supplemental financing must be verified and committed to the project in form and substance satisfactory to the Administrator before REA will advance any funds.

§ 1703.24 [Reserved]

§ 1703.25 Significance of REA financing to the total project cost.

Selection of applications will be based on a preference for applications requesting REA financing which will be at least equal to 5 percent of the total project costs, as determined by the Administrator. Projects costs will be based on the amount that would be spent over the first 2 years after the first advance of REA funds for the component or phase of the undertaking for which the borrower is requesting REA funds, as determined by the Administrator. The Administrator may determine that a component or phase, especially actions necessary to initiate a larger project, constitute a distinct project for the purposes of this section.

§ 1703.26 [Reserved]

§ 1703.27 Owner's equity in the project.

The Administrator may require, as a condition to REA financing, that the owner(s) of the project invest equity capital if determined to be financially necessary, based on an REA financial analysis and sound lending practices.

§ 1703.28 Maximum and minimum sizes of a zero-interest loan or grant application.

(a) The maximum size of an application that will be considered for funding under this subpart during a fiscal year will be 3 percent of the projected total amount available for the zero-interest loans or grants under section 313 of the Act during that fiscal year, rounded to the nearest $10,000. This determination will be made by the Administrator for each fiscal year.

(b) Regardless of the projected total amount that will be available, the maximum size may not be lower than $200,000 nor greater than $400,000.

(c) The projected total amount available during a particular fiscal year is calculated as the sum of the projected amount that will be credited to the subaccount during a particular fiscal year from the interest differential calculation based on the REA borrowers' cushion of credit levels at the time the Administrator makes the determination and any amounts appropriated for that fiscal year for zero-interest loans or grants made under section 313 of the Act.

(d) After the Administrator has determined the maximum size for a fiscal year, a notice of the calculation and amount will be published promptly in the **Federal Register**. Thereafter, the maximum size will remain in effect until the Administrator has published the maximum size for the next fiscal year.

(e) All unselected applications on file at REA, including both loan and grant applications, from the same borrower for the same project will be considered to be one application in determining that the maximum size of the application is in accordance with this section.

(f) The minimum size of an application for assistance under this subpart that will be considered for funding is $10,000.

§ 1703.29 Terms of zero-interest loan repayment.

(a) The Administrator will determine the terms and repayment schedule of the zero-interest loan to the borrower based on the nature of the project and approved purposes. Ordinarily, the total term of the zero-interest loan, including any principal deferment period, will not exceed 10 years. The repayment terms the borrower sets on a pass-through-

loan must equal the terms of the loan provided to the borrower unless a written request from the borrower to provide a longer deferment period, shorter total term of the loan, or other benefits is approved by the Administrator.

(b) The Administrator has the discretion to defer the repayment of principal up to two years, based on an analysis of the feasibility of the project. Ordinarily, if the Administrator considers the project to be a business expansion or going concern, the first repayment of principal will not begin until one year after the date of the REA note. Ordinarily, if the Administrator considers the project to be a start-up project, the first repayment of principal will not begin until 2 years after the date of the REA note. Loans must be repaid under terms set forth in REA's legal documents.

(c) Unless the Administrator has specifically approved otherwise, the borrower will be required to repay the REA zero-interest loan in full at such time as a pass-through-loan has been fully repaid to the borrower. If the borrower uses the proceeds of the REA zero-interest loan to provide pass-through-loans to more than one entity, this requirement will only apply to that portion of the zero-interest loan associated with the loan that has been fully repaid to the borrower.

(d) If the Administrator determines that, as a result of state law, court rulings, or regulatory commission decisions, it is necessary to ensure that the borrower will repay the REA zero-interest loan, the borrower may be required to provide an irrevocable letter of credit, or another form of guarantee satisfactory to the Administrator. The letter of credit or other guarantee is to be made payable to REA. The letter of credit or other guarantee may not be secured by any assets under a REA and/or Rural Telephone Bank mortgage and must be in form and substance satisfactory to the Administrator. REA must receive the letter of credit or other guarantee prior to the advance of any zero-interest loan funds.

§ 1703.30 Approval of agreements.

(a) The Administrator must approve any agreements between the borrower and the owner(s) of the project, those undertaking the project, or any intermediary that will re-lend or transfer the proceeds of the REA funds, that the Administrator deems necessary.

(b) Borrowers must obtain the Administrator's approval of any loan, grant or security agreement, mortgage or note between the borrower and the owner(s) of the project, those undertaking the project or any intermediary that will re-lend or transfer the proceeds of the REA funds, prior to the advance of REA zero-interest loan or grant funds to the borrower. The borrower must receive the Administrator's approval of the final draft version of the documents prior to their execution.

(c) Borrowers must obtain the Administrator's written approval prior to revising or amending any loan, grant or security agreement, mortgage or note that has been reviewed and approved by the Administrator pursuant to paragraph (b) of this section. Additionally, the borrower must obtain the Administrator's written approval prior to executing, revising or amending any other agreement, in connection with the project, between the borrower and the owner(s) of the project, those undertaking the project or any intermediary that will re-lend or transfer the proceeds of the REA funds.

(d) The borrower and the owner(s) of the project, or those undertaking the project, should make agreements and prepare documents in accordance with all applicable laws.

(Approved by the Office of Management and Budget under control number 0572–0086)

§ 1703.31 Transfer of employment or business.

The project must not result primarily in the transfer of any existing employment or business activity from one area to another.

§ 1703.32 Environmental requirements.

(a) Prospective recipients of zero-interest loans or grants should consider the potential environmental impact of their proposed projects at the earliest planning stage and plan development in a manner that reduces, to the extent practicable, the potential to affect the quality of the human environment adversely.

(b) *Application for zero-interest loans or grants for project feasibility studies.* For a proposal to fund a project feasibility study, the only environmental information normally required is whether or not the proposed project being studied or analyzed will be located within an area protected under the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*) Generally, the use of Federal funds to promote development on coastal barriers is strictly limited by the Coastal Barriers Resources Act.

(c) *Application for zero-interest loans or grants for a project that is not considered project feasibility studies.* (1) The Administrator will review support materials in the application and initiate an environmental review process pursuant to 7 CFR part 1794. This process will focus on any environmental concerns or problems that are associated with the project.

(2) The level and scope of the environmental review will be determined in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, (42 U.S.C. 4321 *et seq.*), the Council on Environmental Policy for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500—1508), REA's environmental policies and procedures (7 CFR part 1794) and other relevant Federal environmental laws, regulations and Executive Orders.

(3) Activity related to the project that will adversely affect the environment or limit the choice of reasonable alternatives must not be undertaken prior to completion of REA's environmental review process.

§ 1703.33 Other considerations.

(a) *Equal opportunity and nondiscrimination requirements.* All zero-interest loans and grants made under this subpart are subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C. 1971 *et seq.*, 1975a *et seq.*, 2000a *et seq.*; 7 CFR part 15); section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 701 *et seq.*; 7 CFR part 15b); the Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 *et seq.*; 45 CFR part 90); and Executive Order 11246, Equal Employment Opportunity, (3 CFR, 1964—1965 Comp., p. 339) as amended by Executive Order 11375, Amending Executive Order 11246, Relating to Equal Employment Opportunity (3 CFR, 1966—1970 Comp., p. 684).

(b) *Architectural barriers.* All facilities financed with REA zero-interest loans or grants that are open to the public or in which physically handicapped persons may be employed or reside must be designed, constructed, and/or altered to be readily accessible to, and usable by handicapped persons. Standards for these facilities must comply with the Architectural Barriers Act of 1968, as amended, (42 U.S.C. 4151 *et seq.*) and with the Uniform Federal Accessibility Standards (UFAS), (Appendix A to 41 CFR part 101.19, subpart 101–19.6).

(c) *Flood hazard area precautions.* In accordance with 7 CFR part 1788, if the project is in an area subject to flooding, flood insurance must be provided to the extent available and required under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 *et seq.*). The insurance must cover, in addition to the

buildings, any machinery, equipment, fixtures and furnishings contained in the buildings. REA will comply with Executive Order 11988, Floodplain Management (3 CFR, 1977 Comp., p. 117), and § 1794.41 of this chapter, in considering the application for the project. As set forth in § 1794.41 of this chapter, public notice is required if a project will be located in a floodplain.

(d) *Uniform relocation assistance.* Relocations in connection with this program are subject to 49 CFR part 24 as referenced by 7 CFR Part 21, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs except that the provisions in Title III, Uniform Real Property Acquisition Policy, of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, (42 U.S.C. 4601–4655) (the "Uniform Act") do not apply to this program.

(e) *Drug-free workplace.* Grants made under this program are subject to the requirements set forth in 7 CFR part 3017, Subpart F, Drug-Free Workplace Requirements, which implements the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*). A borrower requesting a grant will be required to certify that it will establish and make a good faith effort to maintain a drug-free workplace program.

(f) *Debarment and suspension.* The requirements of Executive Order 12549, Debarment and Suspension (3 CFR, 1986 Comp., p. 189), and 7 CFR part 3017, Subparts A through E, Governmentwide Debarment and Suspension (Nonprocurement), regarding debarment and suspension are applicable to this program.

(g) *Intergovernmental review of Federal programs.* (1) This program is subject to the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs (3 CFR, 1982 Comp., p. 197) and 7 CFR part 3015, Subpart V, Intergovernmental Review of Department of Agriculture Programs and Activities, which implements Executive Order 12372.

(2) With the exception of zero-interest loans and grants for project feasibility studies, proposed projects are subject to the state and local government review process set forth in 7 CFR part 3015. Under the review process, state and local governments have 60 days to comment on the proposed project.

(3) The Administrator will not give final approval to an application until the requirements of 7 CFR part 3015, subpart V, regarding state and local government review have been satisfied.

(h) *Restrictions on lobbying.* (1) The restrictions and requirements imposed by 31 U.S.C. 1352, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" and the implementing regulation, 7 CFR Part 3018, New Restrictions on Lobbying, are applicable to this program.

(2) The regulation that implements this statute requires applicants for a zero-interest loan in excess of $150,000 and applicants for a grant in excess of $100,000 to file a certification statement regarding the use of Federal appropriated funds to lobby the Executive and Legislative branches of the Federal Government, and to file a disclosure form if engaged in these activities using unappropriated funds.

(3) In addition, persons that receive contracts or subcontracts in excess of $150,000 under a zero-interest loan and persons that receive subgrants, contracts or subcontracts in excess of $100,000 under a grant are required to file certification statements regarding lobbying the Executive and Legislative branches and, if engaged in these activities, to file disclosure forms.

§ 1703.34 Applications.

(a) Borrowers may file an application on any official workday during the first 14 days of every month. A borrower must send a copy of the application, except for an application that requests a zero-interest loan or grant for project feasibility studies, to the state single point of contact for state and local governments at the same time it submits the application to REA. As discussed in § 1703.33(g), state and local governments have 60 days to review a borrower's proposal before the Administrator gives final approval to an application, except a proposal for project feasibility studies. The Administrator may establish a special application period if determined necessary.

(b) A completed application will consist of an original and two copies of:

(1) *An application form.* The application must include a completed application form, "Application for Federal Assistance," Standard Form 424;

(2) *A board resolution.* The application must include a board resolution that:

(i) Requests a zero-interest loan and/or grant, including the amount of the zero-interest loan and/or the amount of the grant rounded to the nearest 1,000 dollars;

(ii) Includes the total combined deferment and repayment period requested for a zero-interest loan if less than 10 years;

(iii) Includes the board's endorsement of the proposed rural economic development project as described in the application;

(iv) States the proposed project does not violate § 1703.20 and § 1703.21; and discloses any information regarding a conflict of interest, potential conflict of interest, or appearance of a conflict of interest that would allow the Administrator to make an informed decision;

(v) Authorizes an official of the borrower to requisition zero-interest loan or grant funds under this program;

(vi) For an application for a grant only, authorizes the chief executive officer of the borrower to execute and deliver on behalf of the borrower the certification Form AD-1049 regarding a drug-free workplace program as required in part 3017, subpart F of this title; and

(vii) Any other matters deemed necessary by the Administrator;

(3) *Miscellaneous Federal forms.* The application must include the following completed forms:

(i) Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions," as required in part 3015, subparts A through E of this title; and

(ii) Assurance statement or certification statement required under the Uniform Act as set forth in § 1703.33(d). For pass-through-loans and pass-through-grants, the ultimate recipient of the proceeds of the REA zero-interest loan or grant must sign the assurance statement that it will comply with the applicable provisions of the Uniform Act or sign a certification that the provisions of the Uniform Act will not apply to the rural development project which will be partially financed with the proceeds of REA funds. If the borrower will not provide a pass-through-loan or pass-through-grant to another entity, the borrower must submit a completed assurance statement or certification regarding the applicable provisions of the Uniform Act, or have such an assurance statement on file at REA;

(4) *Contingent certifications and disclosures.* As determined by the type and amount of requested funds, the application must include the following completed forms:

(i) For an application for a zero-interest loan in excess of $150,000 or for an application for a grant in excess of $100,000, a certification statement, "Certification Regarding Lobbying," and, if the borrower is engaged in lobbying activities described under § 1703.33(h), a completed disclosure form, "Disclosure of Lobbying Activities"; and

(ii) For an application for a grant only, a completed certification form, "Certification Regarding Drug-Free Workplace Requirements (Grants)," Form AD-1049 as required in part 3017, subpart F of this title;

(5) *Other requirements.* The following:

(i) A section entitled "Selection Factors" as set forth in § 1703.35;

(ii) A section entitled "Project Description" as set forth in § 1703.36; and

(iii) Except for applications for project feasibility studies, a section entitled "Environmental Impact of the Project" as set forth in § 1703.37.

(c) The Administrator may request additional information it considers relevant from the borrower.

(d) During the application review process, the borrower may change the amount of the zero-interest loan or grant funds requested or other portions of its application, only if approved by the Administrator. A borrower that changes its request from a grant to a zero-interest loan must submit information necessary for the Administrator to evaluate a loan proposal as set forth in this subsection, and submit a new board resolution requesting the loan.

(The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 0572–0088)

§ 1703.35 Section of the application covering the selection factors.

The application must contain a section addressing the "selection factors" consisting of the following:

(a) "Nature of the project" (§ 1703.46(g)(1)), which includes any information considered appropriate including aspects of the project that may not be obvious to an outside observer;

(b) "Job creation project" (§ 1703.46(g)(2)), which includes any information that is not readily apparent concerning whether the project would directly create jobs in rural areas. The number of the jobs and the basis for the job projection should be included under "Number of long-term jobs";

(c) "Long-term improvements in economic development" (§ 1703.46(g)(3)), which addresses the extent to which the project will improve the productive potential of the labor force, industrial plant, infrastructure, natural resources and institutions by employing advanced technology, creating higher-skilled occupations, adding higher value to natural resources, creating jobs with higher-career potential, or is considered part of a knowledge intensive industry;

(d) "Diversifying the rural economy or alleviating underemployment" (§ 1703.46(g)(4)), which includes any information the borrower desires the Administrator to consider;

(e) "Supplemental funds" (§ 1703.46(h)(1)), which includes the name of each source and the respective amount of supplemental funds that was provided to the project within 6 months of submitting the application to REA, and the amount that will be provided within two years of receiving REA funds. Also indicate the nature and strength of the commitments to make these supplemental funds available, when these funds are expected to be disbursed, any special terms and conditions associated with the commitments, copies of the commitments, and, if established, the interest rate, term and deferment period on any loan for the project;

(f) "Economic conditions and job creation" (§ 1703.46(h)(2)), which includes:

(1) "Unemployment rates" (§ 1703.46(h)(2)(i)). List the county or counties in which the project will be located. It is not necessary to include the county, state or national unemployment rates. REA obtains these rates from other Federal agencies;

(2) "Per capita personal income" (§ 1703.46(h)(2)(ii)). As with "Unemployment rates," it is not necessary to include the county, state or national per capita personal income levels;

(3) "Change in population" (§ 1703.46(h)(2)(iii)). It is not necessary to include the county population levels;

(4) "Number of long-term jobs" (§ 1703.46(h)(2)(iv)). Include the number of long-term jobs that the project will directly create in rural areas and the total project cost;

(5) "Community-based economic development program" (§ 1703.46(h)(2)(v)). Explain if the project is part of a community-based economic development program; and

(6) "Plan for improving the marketable skills of people in rural areas" (§ 1703.46(h)(2)(vi)). Include information on any written plan for the project to provide opportunities or incentives to improve the marketable skills of rural residents through training and/or education. For projects that consist of providing training or education, indicate how it will benefit rural residents;

(g) "Location" (§ 1703.46(h)(3)), which indicates whether or not the project will be located in a town and, if so, the name of the town;

(h) "Support for the program—cushion of credit payments" (§ 1703.46(h)(4)), which mentions any cushion of credits payments made recently in accounts at REA;

(i) "Demonstration project" (§ 1703.46(h)(5)), which includes a discussion of any commitments from the owner(s) of the project to be a demonstration project and a copy of the written commitment;

(j) "Probability of success" (§ 1703.46(h)(6)), which includes:

(1) "Owners and management of the project" (§ 1703.46(h)(6)(i)) that discusses how the knowledge, experience, education and training of the proposed owners and management of the project increases the likelihood of long-term success; and

(2) "Ultimate recipient's business plan" (§ 1703.46(h)(6)(ii)), that references an attached copy of the business plan.

(i) The plan should include:

(A) A description of the project;

(B) A description of the business, if applicable, its products and the prospects of the industry;

(C) What will be produced or accomplished;

(D) The area to be served;

(E) Any market research or marketing plan;

(F) Any operating plan;

(G) Total project costs and projected use of funds by purpose or category;

(H) A financial plan, including a feasibility study with projected balance sheets, income statements and cash flow statements;

(I) The source of supplemental funds, the nature and strength of commitments from other sources of financing, and the equity contribution;

(J) The proposed ownership and management of the project;

(K) A description of any coordination with a local, regional or state development organization; and

(L) Other relevant information.

(ii)The scope of the plan should reflect the amount requested in the application, the risks involved with developing and operating the project, and the overall cost of the project. The plan should describe any coordination with a local, regional or state development organization.

§ 1703.36 Section of the application covering the project description.

In general, this section should be more detailed the larger the project for which the borrower is requesting funding. The section of the application on the "project description" must include:

(a) A description of the proposed project including the nature of the project, the location of the project, organizations that will be involved in the project and the primary beneficiaries of the project. Also include in this subsection a statement describing

whether the borrower has or will have a direct or indirect (through a subsidiary or affiliated organization) ownership or similar beneficial interest in the facilities to be constructed or in the entity that will occupy or utilize these facilities. In addition, explain whether it seems likely that the proposed project will be undertaken or completed in the absence of an REA zero-interest loan or grant;

(b) A separate paragraph entitled "Uses of REA Funds and Total Project Costs", that includes a breakdown of the specific uses of REA funds and a breakdown of the specific uses of all funds necessary to ensure completion of the project. Project costs should be limited to the amount to be spent over the 2-year period after receiving REA funds;

(c) For a project that involves the establishment of a new venture, such as a rural business incubator or a similar start-up venture, a discussion of how the costs of establishing, organizing and arranging financing for the venture will be paid, how start-up costs incurred after the venture has been established will be paid, the expected sources of revenue necessary to sustain the project and revenue and expense projections for the first 3 years of the project;

(d) If the borrower will provide a pass-through-loan or pass-through-grant to another entity, outline the terms and conditions that the borrower intends to place on the recipient of the REA funds including the security arrangements and collateral on a zero-interest loan. The discussion of proposed security arrangements and collateral should reflect the amount requested in the application, the risks involved with developing and operating the project, and the overall cost of the project;

(e) For pass-through-loans and pass-through-grants, a description of the ultimate recipient, including the form of organization and ownership (i.e., corporation, nonprofit corporation, cooperative, partnership, sole proprietor), the owner(s) and the chief officers;

(f) If the project involves construction, a brief description of the construction necessary to make the project operational and the organization involved with the project that will be responsible for building the project facilities or having them built;

(g) A discussion of the manner in which the borrower intends to monitor the zero-interest loan and/or grant proceeds to ensure that they are used only for approved purposes; and

(h) If applicable, a discussion on any potential conflict of interest or the appearance of a conflict of interest, a clarification of any aspect of the project with respect to the restriction that it must not result primarily in the transfer of any existing employment or business activity from one area to another or a clarification of any aspect of the project with respect to limitations in § 1703.20 and § 1703.21.

§ 1703.37 Section of the application covering the environmental impact of the project.

(a) For a proposed project that only involves internal modifications or equipment additions to buildings or other structures (for example; relocating interior walls or adding computer facilities) and/or external changes or additions to existing buildings, structures or facilities requiring physical disturbance of less than 0.4 hectare (0.99 acre), the environmental information normally required is:

(1) A copy of a flood hazard zone map from the Federal Emergency Management Agency with the location of the project site marked;

(2) A statement of whether or not the proposed project will be located within an area protected under the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*);

(3) A description of the internal modifications or equipment additions, and the external changes or additions to existing buildings, structures or facilities being proposed, the size of the site in hectares, and the general nature of the proposed use of the facilities once the project is completed, including any hazardous materials to be used, created or discharged, any substantial amount of air emissions, wastewater discharge, or solid waste that will be generated; and

(4) A statement of whether the project site contains or is near a property listed or eligible for listing in the National Register of Historic Places (16 U.S.C. 470).

(b) For all other proposed projects include:

(1) A copy of a flood hazard zone map from the Federal Emergency Management Agency with the location of the project site marked (42 U.S.C. 4001 *et seq.*);

(2) A diagram showing the general layout of the proposed facilities on the project site;

(3) The size of the project site in hectares;

(4) A map (preferably a U.S. Geological Survey map) of the project area indicating the boundaries of the project;

(5) A statement of whether or not the project will be located within an area protected under the Coastal Barrier Resources Act;

(6) The amount of property to be cleared, excavated, fenced or otherwise disturbed by the project;

(7) The current land use and zoning of the project site and any vegetation on the project site;

(8) A description of buildings or other major structures, including dimensions, to be constructed or modified;

(9) A statement of whether the presence of wetlands or existing agricultural operations are present at the project site (7 CFR part 1794); whether properties listed or eligible for listing in the National Register of Historic Places are on or near the project site; whether threatened or endangered species or critical habitat are on or near the project site (16 U.S.C. 1531 *et seq.*);

(10) The general nature of the proposed use of the facilities once the project is completed, including any hazardous materials to be used, created or discharged, any substantial amount of air emissions, wastewater discharge, or solid waste that will be generated (7 CFR part 1794); and

(11) A copy of any environmental review, study, assessment, report or other document that has been prepared in connection with obtaining permits, approvals or other financing for the proposed project from state, local or other Federal agencies. Such material, to the extent relevant, may be used to fulfill the requirements of this section.

(c) The Administrator may request additional environmental information in specific cases to satisfy § 1703.32.

§§ 1703.38—1703.44 [Reserved]

§ 1703.45 Review and analysis of applications.

Completed applications received at REA by the 14th day of the month will be considered at the first selection date which occurs at least 40 days after the application was received. Completed applications received at REA after the 14th day of a month will be either be held for the next application period or returned to the borrower, at the borrower's option. The review period of at least 40 days should allow sufficient time for state and local governments to review the proposed projects under the intergovernmental review process, as set forth in 7 CFR part 3015, and to provide sufficient time for the Administrator to fully review and analyze these applications. In the event state and local government review has not been completed, the Administrator's approval may be contingent upon the review being satisfactorily documented. The Administrator reserves the

discretion to consider applications outside the normal selection period.

§ 1703.46 Documenting the evaluation and selection of applications for zero-interest loans and grants.

(a) The Administrator will only consider for selection applications that request funds for uses set forth in § 1703.17 and are not ineligible under § 1703.20, as determined by the Administrator. The Administrator will not consider applications that do not conform with all of the provisions of this subpart, as determined by the Administrator. The Administrator will make the determination of all numbers, dollars, levels and rates, as well as the nature, costs, location and other characteristics of the proposed project, to calculate the number of points assigned to an application for each selection factor. Applications for zero-interest loans and grants will be ranked separately. In addition, applications requesting less than 5 percent of the total project costs as provided in § 1703.25 will be ranked separately, subject to § 1703.46(k). The Administrator will select applications that receive the greatest number of total points under paragraphs (g) and (h) of this section, subject to available funds and the provisions of § § 1703.25, 1703.46(j), and 1703.46(k).

(b) After reviewing an application, the Administrator may decline to select an application:

(1) That would result in a conflict of interest or the appearance of a conflict of interest;

(2) Based on the management and financial situation of the borrower applying for the zero-interest loan or grant. In determining the borrower's financial situation, the Administrator will consider, among other things, the borrower's existing and projected cash flows, equity to asset ratios, times interest earned ratios, debt service coverage ratios, the level of its investments, the level of its cash and other liquid assets, its working capital and repayment of its debts;

(3) Based on a determination that limitations under state laws will lessen the likelihood of repayment of the REA zero-interest loan in the event that the borrower does not receive funds from the project necessary to cover the REA zero-interest loan payments;

(4) Based on the unwillingness of the borrower applying for the zero-interest loan or grant to exercise diligence in repaying REA loans or loan guarantees, and comply with REA's legal documents and regulations;

(5) For an otherwise eligible project when any of the revenues of the project are derived from a legalized gambling activity; or

(6) For any illegal activity.

(c) (1) The Administrator will first evaluate the application and the project with respect to the three factors in this paragraph. The Administrator will not select applications requesting funds for projects that in the Administrator's best judgment have a low probability of:

(i) Being a viable business or operation;

(ii) Being successful as measured by long-term job creation or retention; and

(iii) Producing long-term economic development in rural areas.

(2) The Administrator's determination in paragraph (c) of this section will be based on the ultimate recipient's feasibility studies, income statements, cash flow statements, existing and projected balance sheets, market research, job creation potential, industry trends, and current economic conditions given the nature of the project. Long-term job creation and economic development in rural areas as used for this factor will mean jobs or economic development that would generally be expected to last at least five years.

(d) The Administrator will not award points under the selection factors in paragraphs (g) and (h) of this section for applications that:

(1) Involve the purchase land that will not be developed or used as a site for a project structure during the current phase of the project, as determined by the Administrator;

(2) Will be used for residential purposes or entertainment purposes at the residential level, such as residential dwellings and land sites, facilities to provide entertainment television, or personal, non-business related vehicle(s); however, nursing homes providing medical care, as determined by the Administrator, will not be considered to be residential dwellings;

(3) Will be used primarily to finance the purchase of an established business or operation rather than for economic development in rural areas or job creation purposes; or

(4) Will be used primarily to transfer property or real estate between owners without making any improvements or additions that will promote economic development in rural areas or job creation.

(e) Projects to provide recreational facilities must convincingly demonstrate that the project would be an integral part of a tourism industry in the community or region to receive points. The application must include support, such as regional studies, that shows the impact of the recreational facilities on the economy of the rural area. Projects that are intended to provide recreational facilities for the residents of an area would not receive points.

(f) After the above determinations, the Administrator will evaluate the applications and assign points with respect to the factors in paragraph (g) of this section. Applications evaluated under paragraph (g) of this section that do not receive at least 35 points or are not within the top 75 percent when all applications being assigned points are ranked from high to low by total number of points will not be evaluated with respect to the factors in paragraph (h) of this section. The only exception to this evaluation process would be the Administrator's determination that additional applications must be selected in accordance with § 1703.14. After such a determination, the remaining applications evaluated in paragraph (g) of this section will be also evaluated under the factors in paragraph (h) of this section.

(g) *Selection factors pertaining to the type of project.* The number of points assigned for each selection factor will be determined as follows:

(1) *Nature of the project.* The extent to which the nature of the project will promote economic development in rural areas and/or job creation—up to 50 points. The determination for this factor will be based on whether the project:

(i) Is considered a start-up, expansion, or enhancement of a business, a business incubator, an industrial building or park, infrastructure necessary to connect these types of projects to existing infrastructure, necessary for the development and operation of these types of projects, or, in the Administrator's determination, basic infrastructure necessary for successful businesses in the rural economy;

(ii) Will provide technical assistance to rural businesses or rural residents, train or educate rural residents, promote economic development in rural areas on a non-profit basis, or provide medical care to rural residents; and

(iii) Will succeed as envisioned in the application, and the possibility that the owners or operators may become delinquent on their loan payments.

(2) *Job creation project.* The extent to which the project will directly lead to job creation given the size of the project and the amount of REA funds requested or the project is necessary for job creation—up to 25 points. As part of the determination, the Administrator will consider whether the project will provide long-term employment for rural residents. For industrial parks, industrial buildings, and similar projects, the

Administrator will consider whether the application includes information on businesses or tenants that will occupy the building(s) and the nature and extent of the commitments to use the buildings in determining the number of points to award. The Administrator will also consider the probability that the project will not result in job creation as envisioned in the application in terms of both the number of jobs and the duration of the jobs.

(3) *Long-term improvements in economic development.* Projects that lead directly to an increase in long-term productivity and per capita income in rural areas—up to 25 points. The Administrator's determination will be based on the extent to which the project will improve the productive potential of the labor force, industrial plant, natural resources, institutions, and infrastructure necessary for economic development and job creation by utilizing advanced technology, creating higher skilled occupations, creating jobs with higher career potential or jobs that are considered part to be of a knowledge intensive industry, or adding higher value to natural resources. In considering infrastructure projects, the Administrator will award points only for the facilities, such as water and sewer facilities, that will serve and are necessary for commercial activities described under this factor.

(4) *Diversifying the rural economy or alleviating underemployment.* Projects that in the judgement of the Administrator will diversify the rural economic base or assist in alleviating chronic underemployment for rural residents—10 points. The Administrator will assign points only to the extent the application contains convincing evidence pertaining to this factor.

(h) *Other selection factors.* The number of points assigned for each selection factor will be determined as follows:

(1) *Supplemental funds.* (i) A determination of the amount of supplemental funds provided or to be provided to the project from the project owner in the form of equity funds, private sources, state and local government sources, other Federal Government sources, the borrower or other sources of funds. The supplemental funds used in this calculation must be disbursed to the project during the period covering six months prior to the receipt of the application by REA and two years after the first advance of REA funds for the project. Supplemental funds must be committed to the project before REA will advance its funds. REA loan or grant funds from the borrower or REA loan or grant funds from any other organization will not be included in the calculations. The Administrator will determine what constitutes expenditures on the project. If supplemental funds as a percentage of the REA zero-interest loan and/or grant to be provided to the project is:

(A) Equal to 20%—10 points, the minimum number of points;

(B) Equal to 100%—20 points;

(C) Equal to 500%—30 points, the maximum number of points.

(ii) Ratios of supplemental funds to REA funds falling between these levels will be assigned points based on a straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(2) *Economic conditions and job creation.* (i) A comparison will be made of the unemployment rate in the county where the project will be located to the state and national unemployment rates.

(A) If the unemployment rate in the county where the project will be located exceeds the National unemployment rate by 30 percent or more—10 points, the maximum number of points awarded.

(B) If the unemployment rate in the county where the project will be located is equal to the National unemployment rate—5 points.

(C) If the unemployment rate in the county where the project will be located is equal to or less than 75 percent of the National unemployment rate—0 points.

(D) If the unemployment rate in the county where the project will be located exceeds the state unemployment rate by 30 percent or more—8 points, the maximum number of points awarded.

(E) If the unemployment rate in the county where the project will be located is equal to the state unemployment rate—4 points.

(F) If the unemployment rate in the county where the project will be located is equal to or less than 75 percent of the state unemployment rate—0 points.

(G) For both the state and national unemployment rate calculations, rates falling between the levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1. If the project will be located in several counties, the Administrator will use a simple average (mean) of the counties for the comparison. The Administrator will use the average of the most recent twelve months of unemployment rates it has obtained from the Bureau of Labor Statistics, U.S. Department of Labor or other government sources and processed into a suitable format.

(ii) A comparison will be made of the per capita personal income in the county where the project will be located to the state and national per capita personal income levels.

(A) If the per capita personal income level in the county where the project will be located is less than or equal to 90 percent of the National per capita personal income level—10 points, the maximum number of points awarded.

(B) If the per capita personal income level in the county where the project will be located is equal to the National per capita personal income level—5 points.

(C) If the per capita personal income level in the county where the project will be located exceeds the National per capita personal income level by 15 percent or more—0 points.

(D) If the per capita personal income level in the county where the project will be located is less than or equal to 90 percent of the state per capita personal income level—8 points, the maximum number of points awarded.

(E) If the per capita personal income level in the county where the project will be located is equal to the state per capita personal income level—4 points.

(F) If the per capita personal income level in the county where the project will be located exceeds the state per capita personal income level by 15 percent or more—0 points.

(G) For both the state and national per capita personal income calculations, incomes falling between the levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1. If the project will be located in several counties, the Administrator will use a simple average (mean) of the counties for the comparison. The Administrator will use the most recent annual per capita personal income levels it has obtained from the Bureau of Economic Analysis, U.S. Department of Commerce or other government sources and processed into a suitable format.

(iii) A calculation will be made of the change in total population over the most recent two-year period in the county where the project will be located. The population change will be the based on the total percentage change over the two-year period calculated as follows: the population for the most recent year less the population as of two years prior to that year with the difference being divided by the population as of two years prior to the most recent year.

(A) If the percentage growth over the two-year period is negative 2.00 percent or higher negative amount (a population decline)—8 points, the maximum number of points.

(B) If the percentage growth over the two-year period is equal to zero or is positive (population increase)—0 points.

(C) Population growth percentages falling between these levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1. If the project will be located in several counties, the Administrator will use a simple average (mean) of the counties for the comparison. The Administrator will use the most recent population data for all counties it has obtained from the Bureau of Economic Analysis, U.S. Department of Commerce or other government sources and processed into a suitable format. The data provide one population figure for the year.

(iv) The number of long-term jobs that the project will directly create in rural areas.

(A) For five or more direct long-term jobs per $100,000 of total project costs—15 points, the maximum number of points awarded.

(B) For two direct long-term jobs per $100,000 of total project costs—8 points.

(C) For no direct long-term jobs—0 points.

(D) Direct, long-term jobs under this factor are jobs that would generally be expected to last at least five years. Long-term jobs that would provide 6 months per year of equivalent full-time employment will be counted under this factor. Long-term jobs that would provide fewer months of employment would be given points based on the ratio of the number of months per year of employment to 12 months. Jobs of at least 20 hours per week will be counted under this factor. For construction of an industrial building, extension of water and/or sewer lines to a building, or a similar project, the Administrator will require a reasonable analysis of the number of jobs that will be created before awarding points for this factor. The Administrator reserves the right to adjust the number based on its analysis of the project, the explanation in the application of the businesses that will locate in the building(s), and any commitments from businesses to locate in the building(s). This factor will not count indirect job creation that results from an overall increase in the local economy once the project is completed. If total project costs per job falls between these levels, points will be assigned based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(v) Projects that are part of a local, community-based rural economic development program that would improve the local economy and enhance the well-being of rural residents—10 points. The determination will be based on information submitted by the borrower in its application and other information the Administrator considers appropriate.

(vi) Projects that have a written plan to provide opportunities or incentives to improve marketable skills for rural residents through training and/or education, or projects which consist of providing this training and/or education—5 points.

(3) *Location.* Projects that will be physically in a rural area—20 points.

(4) *Support for program—cushion of credit payments.* (i) Applications submitted by borrowers that have made cushion of credit payments as set forth in section 313 of the Act based on the following:

(A) If the borrower has $300,000 or three percent of total assets, whichever is less, in cushion of credit payments—15 points;

(B) If the borrower has $100,000 or one percent of total assets, whichever is less, in cushion of credit payments—10 points;

(C) If the borrower has at least $5,000 or 0.5 percent of total assets, whichever is less, in cushion of credit payments—5 points.

(ii) The amount of cushion of credit payments will be based on the amount at the time the Administrator evaluates the project. The calculation of a borrower's total assets will be based on REA's most recently published Statistical Report, Rural Electric Borrowers (REA Informational Publication 201–1) or Statistical Report, Rural Telephone Borrowers (REA Informational Publication 300–4). These publications are available from the Rural Electrification Administration, Administrative Services Division, Washington, DC, 20250. If the amount of cushion of credits payments falls between these levels, points will be based on a straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(5) *Demonstration project.* If the application contains a written commitment from the owner(s) of the project that the project will be a demonstration project—5 points.

(6) *Probability of Success.* (i) The knowledge, experience, education and training of the proposed owners and management of the project—up to 10 points.

(ii) The ultimate recipient's business plan and indications that the project will successfully result in economic development in rural areas and/or job creation—up to 40 points. The Administrator's evaluation of the success of the project will be based on indications in the application and REA's analysis that the project will be a viable business or operation, be successful in creating or retaining long-term jobs, and be successful in producing economic development that will result in long-term benefits to rural areas. The plan should include:

(A) A description of the project;

(B) A description of the business, if applicable, its products and the prospects of the industry;

(C) What will be produced or accomplished;

(D) The area to be served;

(E) Any market research or marketing plan;

(F) Any operating plan;

(G) Total project costs and projected use of funds by purpose or category;

(H) A financial plan, including a feasibility study with projected balance sheets, income statements and cash flow statements;

(I) The source of supplemental funds, the nature and strength of commitments from other sources of financing, and the equity contribution;

(J) The proposed ownership and management of the project;

(K) A description of any coordination with a local, regional or state development organization; and

(L) Other relevant information.

(iii) The Administrator expects the ultimate recipient's business plan referenced in paragraph (h)(6)(ii) of this section to be comparable to a plan normally submitted to a bank for long-term financing. In evaluating an application for this selection factor, the Administrator will consider the probability that the project will result in long-term economic development in rural areas and/or job creation as envisioned in the application.

(iv) Quality and completeness of borrower's initial application submitted to REA—up to 10 points. The Administrator's determination will be based on the completeness and quality of the application as measured by the additional information required from the borrower to complete the analysis.

(i) *Outline of selection factors.* The selection factors contained in

§ 1703.46(g) and § 1703.46(h) and the maximum number of points that may be assigned to each is listed below:

(1) *Nature of the project*—50 points;

(2) *Job creation project*—25 points;

(3) *Long-term improvements in economic development*—25 points;

(4) *Diversifying the rural economy or alleviating underemployment*—10 points;

(5) *Supplemental funds*—30 points;

(6) *Economic conditions and job creation:*

(i) *Unemployment rates*—18 points;

(ii) *Per capita personal income*—18 points;

(iii) *Change in population*—8 points;

(iv) *Number of long-term jobs*—15 points;

(v) *Community-based economic development program*—10 points;

(vi) *Plan for improving the marketable skills of people in rural areas*—5 points;

(7) *Location*—20 points;

(8) *Support for program*—cushion of credit payments—15 points;

(9) *Demonstration project*—5 points;

(10) *Probability of success:*

(i) *Owners and management of the project*—10 points;

(ii) *Ultimate recipient's business plan*—40 points; and

(iii) *Completeness of borrower's initial application*—10 points.

(j) Regardless of the number of points assigned to a borrower's application, the Administrator may:

(1) Limit the number of applications selected in any one state during any fiscal year to the ratio of borrowers in that state to the total number of borrowers multiplied by three, or ten percent of the total number selections that have been made during the current fiscal year, or ten, whichever is greatest. The number of borrowers will be determined as of the latest published REA statistical reports (Statistical Report, Rural Electric Borrowers, REA Informational Publication 201–1 and Statistical Report, Rural Telephone Borrowers, REA Informational Publication 300–4. These publications are available from the Rural Electrification Administration, Administrative Services Division, Washington, DC, 20250);

(2) Limit a borrower to one selected application during any selection period;

(3) Limit the number of applications selected for a particular project;

(4) Allocate available funds between applications from electric and telephone borrowers;

(5) Select an application receiving fewer points than another application if there are insufficient funds during a particular budget period to select the higher ranked application; except that the Administrator may ask the borrower that submitted the higher ranked application if it desires to reduce the amount of its application to the amount of funds available. The reduction may require additional supplemental funds to ensure a successful project. Based on information the borrower provides, the Administrator will re-analyze the project to ensure that the project will still be feasible with reduced funding; or

(6) Select the highest ranking applications for funds to finance projects that the Administrator classifies as project feasibility studies.

(k) During each selection period, the highest ranking application from among the applications requesting less than 5 percent of the total project costs as provided in § 1703.25 will be considered with the applications requesting 5 percent or more of total project costs.

(l) The Administrator reserves the right to use the region or data it considers most appropriate if "county" data are unavailable for a particular area.

§§ 1703.47—1703.57 [Reserved]

§ 1703.58 Post selection period.

(a) REA will inform a borrower whether the Administrator has selected its application. The advance of REA funds after the selection has occurred is contingent upon the borrower meeting any terms and conditions the Administrator determines are necessary. A borrower that submitted an application which was not selected will be asked to inform REA whether it desires to be reconsidered at a later date. The borrower may modify the application after it has been considered without resubmitting all the required material in an application, except if it changes the request from a grant to a zero-interest loan it must submit information necessary for the Administrator to evaluate a loan proposal as set forth in § 1703.35 and § 1703.36 and submit a new board resolution requesting a loan. If the borrower so desires, the Administrator will consider an application for up to one year after the date REA originally received the application. A borrower may submit new applications as often as it desires.

(b) During the period between the selection of the application and the execution of REA's legal documents, the borrower must inform the Administrator if the project is no longer viable or the borrower no longer desires a zero-interest loan or grant for the project. Upon a determination by the Administrator to that effect, the selected application will be considered cancelled.

(c) If an application has been selected and the nature of the project changes, as determined by the Administrator, the borrower may be required to submit a new application to REA for consideration. The selection may not be transferred to another project, as determined by the Administrator. At any time after the selection of an application, the Administrator may, upon a request from the borrower and receipt of any documentation the Administrator considers necessary, approve changes in the method of carrying out the purpose of the project as long as the overall purpose of the project remains the same, revise the amount of the zero-interest loan and/or grant, revise the loan maturity date and principal deferment period and make other adjustments. The Administrator may reduce the amount of the REA loan or grant to reflect reductions in the amount of supplemental funds to be provided to the project. For substantial reductions in amount of supplemental funds to be provided to the project, the Administrator may require the borrower to re-apply for the REA loan or grant funds.

(d) If state or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within three months of the Administrator's selection of the application, the Administrator may consider the selection of the application cancelled.

§ 1703.59 Final application processing and legal documents.

(a) After a borrower has submitted all information the Administrator determines is necessary for the selected application, REA will send the necessary legal documents to the borrower to execute and return to REA. The legal documents will include a letter of agreement and any legal documents the Administrator deems appropriate, including any loan agreements, notes, security instruments, certifications or legal opinions. The letter of agreement will, among other things, constitute the Administrator's approval of funds for the project subject to certain terms and conditions as determined by the Administrator, and include a project description, approved purposes of the zero-interest loan and/or grant, the maximum amount of zero-interest loan and/or grant, supplemental funds to be provided to the project and certain agreements or commitments the borrower proposed in its application.

(b) The Administrator has the discretion to include as an approved purpose the reimbursement of short-

term financing and expenditures that were used for costs incurred on the project in accordance with § 1703.20(a)(2).

(c) If the borrower fails to submit within one month from the date of the Administrator's selection of an application all of the information that the Administrator determines to be necessary for REA to prepare legal documents, the Administrator may consider the selection of the application cancelled.

§ 1703.60 [Reserved]

§ 1703.61 Disbursement of zero-interest loan and grant funds.

(a) REA will disburse zero-interest loan funds to the borrower which must disburse zero-interest loan proceeds to the project for approved purposes in accordance with the legal documents executed by the Administrator and the borrower and applicable REA regulations. The borrower must make payments on a zero-interest loan as set forth in the legal documents executed by the Administrator and the borrower.

(b) REA will disburse grant funds to the borrower which must disburse grant proceeds to the project for approved purposes in accordance with the provisions of 7 CFR part 3015 and 7 CFR part 3016, as appropriate, the legal documents executed by the Administrator and the borrower, and applicable REA regulations.

(c) If the borrower fails to satisfy all conditions, requirements, and terms prerequisite to the advance of zero-interest loan and/or grant funds as set forth in the letter of agreement or other REA legal documents within 120 days from the date the borrower signs the letter of agreement agreeing and accepting the conditions, requirements, and terms of the REA zero-interest loan and/or grant, or such later date as the Administrator may approve, the Administrator may rescind the zero-interest loan and/or grant commitment.

(d) During the period between the execution of REA's legal documents and the disbursement of funds, the borrower must provide the Administrator written notification if the project is no longer viable or the borrower no longer desires a zero-interest loan or grant for the project. After REA has received the borrower's notification, the Administrator will rescind the commitment.

(e) The borrower must return to REA all proceeds of the zero-interest loan and/or grant, including any interest earned on the funds being returned, which have not been lent or disbursed by the borrower for approved purposes during the six months following the advance of the loan or grant funds from REA to the borrower, or such later date as the Administrator may approve. If the project is under the control of the borrower, all proceeds of the zero-interest loan and/or grant must be returned to REA, including any interest earned on the funds being returned, which have not been expended by the borrower for approved purposes before the first anniversary of the date of the advance of the loan or grant funds from REA to the borrower, or such later date as the Administrator may approve. Authorization of any extension rests solely within the discretion of the Administrator.

§§ 1703.62—1703.65 [Reserved]

§ 1703.66 Review and other requirements.

(a) REA will review borrowers receiving zero-interest loans or grants, as necessary, to ensure that funds are expended for approved purposes. Borrowers receiving zero-interest loans or grants must monitor the project to the extent necessary to ensure that the project is in compliance with all applicable regulations, including ensuring that funds are expended for approved purposes. The borrower is responsible for ensuring that disbursements and expenditures of funds are properly supported with certifications, invoices, contracts, bills of sale, or any other forms of evidence determined appropriate by the Administrator and that such supporting material is available, at the borrower's premises, for review by the REA field accountant, borrower's certified public accountant, the Office of Inspector General, the General Accounting Office and any other accountant conducting an audit of the borrower's financial statements or this rural economic development program. Borrowers will be required to permit REA to inspect and copy its records and documents that pertain to the project.

(b) The borrower must require the recipient of a pass-through loan to provide an itemized list to the borrower that shows the expenditures made on the project for approved purposes, including a certification to that effect. The borrower will also require the recipient to attach invoices, receipts, bills of sale, and other evidence representing the items on the list of expenditures that at least total the amount of the REA zero-interest loan. REA's legal agreements will include the terms and conditions that the borrower must require in its agreement with the recipient of a pass-through loan covering the use and intended schedule of expenditures of the loan funds.

(c) REA's legal documents may require the borrower to include in its legal documents with the recipient of a pass-through loan or a pass-through-grant the requirement to expend the funds for approved purposes by a certain date specified in REA's legal documents or return to the borrower all funds that have not been expended by such date. The borrower must promptly return to REA all unexpended funds that the recipient returns to the borrower under the terms set forth in the legal documents executed between the Administrator and the borrower. The borrower may request an extension due to delays in the project. Authorization of any extension rests solely within the discretion of the Administrator.

(d) The legal documents executed between the borrower and the Administrator in connection with a zero-interest loan must contain provisions giving the Administrator discretionary rights and remedies in the event a borrower fails to comply with this subpart, other Federal regulations and statutes, or the terms, conditions and requirements of the executed legal documents. Regardless of any right or remedy that the Administrator chooses to assert, if the borrower uses any zero-interest loan funds other than for approved purposes, the borrower will be required to return to REA the amount used for unapproved purposes and it will be considered a prepayment on the REA note.

(e) Borrowers receiving zero-interest loans must have a financial report and general accounting of all zero-interest loan funds prepared in accordance with the provisions of 7 CFR Part 1773, REA Policy on Audits of electric and telephone borrowers.

(f) The borrower must promptly notify the Administrator in writing if another entity is in default on a pass-through-loan between the borrower and the entity.

(g) Grants provided under this program will be administered under and are subject to 7 CFR part 3015 and 7 CFR part 3016, as appropriate. The borrower that receives a grant will be subject to requirements under these regulations which cover, among other things, financial reporting, accounting records, budget controls, record retention and audits.

§§ 1703.67—1703.99 [Reserved]

Dated: September 16, 1992.

James B. Huff, Sr.,

Administrator.

[FR Doc 92-22776 Filed 9-24-92; 8:45 am]

BILLING CODE 3410-15-F

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91-197-2]

Change in Disease Status of Chile Because of Swine Vesicular Disease and Velogenic Viscerotropic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to add Chile to the lists of countries considered to be free of swine vesicular disease (SVD) and velogenic viscerotropic Newcastle disease (VVND). There has never been an outbreak of SVD in Chile, and there have been no cases of VVND in Chile since 1975. The change in the VVND status of Chile relieves certain prohibitions and restrictions on the importation into the United States, from Chile, of certain poultry and poultry products.

However, Chile is not free of hog cholera. Therefore, the importation from Chile of swine and fresh, chilled, and frozen meat from swine will continue to be prohibited because of this disease.

EFFECTIVE DATE: October 26, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Chief Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756-A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed to prevent the introduction into the United States of certain animal diseases, including swine vesicular disease (SVD) and velogenic viscerotropic Newcastle disease (VVND).

SVD is an acute, highly infectious viral disease of swine. It is characterized by vesicular lesions and subsequently by erosions of the epithelium of the mouth, nares, snout, and feet.

VVND (also called exotic Newcastle disease) is an infectious and contagious virus disease affecting all species of poultry and birds. In poultry, the clinical evidence of the disease is severe respiratory distress, depression, and death in up to 100 percent of the poultry in infected flocks. Many birds, particularly of the psittacine families, may survive the acute infection. However, they still may shed the virus.

There have been no outbreaks of VVND in Chile since 1975, and there has never been an outbreak of SVD in Chile. This has been confirmed by the Office of International Epizootics (OIE), in which Chile maintains membership. The OIE reports any outbreaks of these and other diseases in member countries. We have determined that Chile has adequate controls to prevent the introduction and spread of VVND and SVD.

Chile has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of VVND and SVD. The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the Government of Chile in support of its request. A team of APHIS officials recently conducted an on-site evaluation of the animal health program in Chile in regard to the VVND and SVD situation in that country. The evaluation consisted of a review of the capability of the Chilean veterinary services, laboratory and diagnostic procedures, disease reporting and surveillance procedures, vaccination practices, and the administration of laws and regulations to insure against the introduction into Chile of VVND and SVD through the importation of animals, meat, and animal products.

On May 29, 1992, we published a proposal in the **Federal Register** (Docket No. 91-197, 57 FR 22669-22670) to declare Chile free of SVD and VVND. Comments on the proposed rule were required to be received on or before July 28, 1992. We did not receive any comments. Therefore, based on the rationale set forth in the proposal, we are adopting the provisions of the proposal as a final rule without change.

Section 94.12(a) of the regulations provides that SVD is considered to exist in all countries of the world except those listed in § 94.12(a). By adopting this final rule, we are adding Chile to this list.

Section 94.6(a)(1) of the regulations provides that VVND is considered to exist in all countries of the world except those listed in § 94.6(a)(2), which are considered to be free of VVND. By adopting this final rule, we are adding Chile to this list.

By adopting this final rule, we also add Chile to the list of countries in § 94.13 and restrict importation of pork and pork products from Chile in accordance with § 94.13. Pork and pork products from countries listed in § 94.13 are subject to special restrictions because they either (1) supplement their national pork supply by importing fresh, chilled, or frozen pork from countries in which SVD is considered to exist; or (2) have a common border with countries in which SVD exists; or (3) have certain trade practices regarding imports from countries in which SVD is considered to exist that could result in commingling of fresh, chilled, and frozen meat from countries in which SVD is considered to exist and pork or pork products from the SVD-free country, presenting a possibility that products from a country with SVD could contaminate products exported to the United States from the SVD-free country.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule eliminates the requirements of § 94.6 concerning VVND for carcasses and parts and products of carcasses of poultry, game birds, and other birds to be imported into the United States from Chile. Live poultry imported into the United States from Chile will continue to be subject to the restrictions of 9 CFR part 92, including the 30-day quarantine period required by § 92.209.

This final rule also eliminates the requirements of § 94.12 concerning SVD for pork and pork products to be imported from Chile. However, the pork and pork products from Chile will instead have to comply with the requirements of § 94.13. The importation of live swine and fresh, chilled, or frozen pork from Chile will continue to be prohibited in accordance with § § 94.9 and 94.10, due to the existence of hog cholera in Chile.

Based on available information, the Department does not anticipate a major increase in exports of live poultry or poultry products from Chile to the United States as a result of this final rule. Since Chile is already trading in international markets, it is unlikely to disrupt established trade relationships with traditional European trading partners by diverting a significant amount of its exports of live poultry or poultry products to the United States. Increases in imports of live poultry from Chile are also highly unlikely because of high transportation costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. By adopting this rule:

(1) All State and local laws, regulations, and policies that are in conflict with this rule will be preempted;

(2) No retroactive effect will be given to this rule; and

(3) It will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a; 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. The heading for part 94 is revised to read as set forth above.

§ 94.6 [Amended]

3. In § 94.6, paragraph (a)(2) is amended by adding "Chile," immediately after "Canada,".

§ 94.12 [Amended]

4. In § 94.12, paragraph (a) is amended by adding "Chile," immediately after "Central American countries,".

§ 94.13 [Amended]

5. In § 94.13, the first sentence of the introductory text is amended by adding "Chile," immediately after "Bulgaria,".

Done in Washington, DC, this 22 day of September, 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-23370 Filed 9-24-92; 8:45 am]
BILLING CODE 3410-34-F

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Central Air Conditioners and Heat Pumps

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by publishing the ranges of comparability to be used on required labels for central air conditioners and heat pumps and by updating the annual national average cost figure for electricity to be used in the cost calculation formula required on fact sheets and in directories. These cost figures are for consumers to use to calculate their own heating and cooling costs.

EFFECTIVE DATE: December 24, 1992.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Central air conditioners (including heat pumps) are included as one of the categories. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final Rule covering seven of the thirteen appliance categories that were then covered by DOE test procedures: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.[2]

On December 10, 1987 (52 FR 46888), the Commission amended the Appliance Labeling Rule by extending its coverage to central air conditioners and heat pumps. For these products, the Commission adopted a disclosure scheme that consists of labels showing simple energy efficiency and range information, together with a requirement to disclose further efficiency and cost information by means of either fact sheets or a listing in a general directory containing such information.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[3] These

[1] Public Law 94-163, 89 Stat. 871 (Dec. 22, 1975).

[2] 44 FR 66466, 16 CFR part 305 (Nov. 19, 1979). The Statement of Basis and Purpose for the Final Rule describes the reasons the Commission declined to cover the other categories of covered products. *Id.* at 66467-69.

[3] Reports for central air conditioners (including heat pumps) are due by July 1.

reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual cost or energy efficiency rating for the appliances derived from tests performed pursuant to the DOE test procedures. The reports also contain the model number, the number of tests performed on each model, and the capacity of each. Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for central air conditioners (including heat pumps) have been received and analyzed by the Commission. New ranges based upon them are herewith published.

In addition, this Notice provides an updated figure for the annual national average cost of electricity. This figure, along with national average cost figures for natural gas, propane, heating oil and kerosene, is published annually by the Department of Energy for the industry's use in calculating the cost figures required by the Commission's Rule. The cost figure for electricity must be used in the cost calculation formulas that appear in appendices H and I. These formulas must be provided on fact sheets and in directories so consumers can calculate their own costs of operation for the central air conditioners and heat pumps that they are considering purchasing. The updated figure, which DOE published on January 14, 1992 (57 FR 1461), and which the Commission published on February 20, 1992 (57 FR 6071), is 8.25 cents per kilowatt-hour. The formulas (and calculations) in both Appendices have been changed to reflect this.

In consideration of the foregoing, the Commission revises Appendices H (1) and (2) and I (1) and (2) of its Appliance Labeling Rule by publishing the following ranges of comparability and cost figures for use in the labeling and advertising of central air conditioners and heat pumps beginning December 24, 1992.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100–357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. Appendix H of part 305 is amended by revising the chart on Range Information to read as follows:

* * * * *

APPENDIX H.—COOLING PERFORMANCE AND COST FOR CENTRAL AIR CONDITIONERS

[Range information]

Single package units	Range of EER's	
Manufacturer's rated cooling capacity (Btu's hr.)	Low	High
Central air conditioners (Cooling only): All capacities	5.60	12.50
Heat pumps (Cooling function): All capacities	8.00	12.10
Split system units	**Range of EER's**	
Manufacturer's rated cooling capacity (Btu's/hr.)	Low	High
Central air conditioners (Cooling only): All capacities	10.00	16.90
Heat pumps (Cooling function): All capacities	10.00	16.40

* * * * *

3. In section 2 "Yearly Cost Information" of appendix H of part 305, the text and formulas are amended by removing the figure "8.24¢" wherever it appears and by adding, in its place, the figure "8.25¢. In addition, the text and formulas are amended by removing the figure "12.36¢" wherever it appears and by adding, in its place, the figure "12.38¢".

4. Appendix I of part 305 is amended by revising the chart on Range Information to read as follows:

APPENDIX I.—HEATING PERFORMANCE AND COST FOR CENTRAL AIR CONDITIONERS

[Range information]

Single package units	Range of EER's	
Manufacturer's rated heating capacity (Btu's hr.)	Low	High
Heat pumps (Heating function): All capacities	5.65	7.35
Split system units	**Range of EER's**	
Manufacturer's rated heating capacity (Btu's/hr.)	Low	High
Heat pumps (Heating function): All capacities	6.80	10.20

The EER shall be the Region IV value based on the appropriate average design heat loss from the table below.

* * * * *

5. In section 2 "Yearly Heating Cost Information" of appendix I of part 305, the text and formulas are amended by removing the figure "8.24¢" wherever it appears and by adding, in its place, the figure "8.25". In addition, the text and formulas are amended by removing the figure "12.36¢" wherever it appears and by adding, in its place, the figure "12.38¢".

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92–23310 Filed 2–24–92; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8438]

RIN 1545–AM49

Consolidated Return Regulations; Coordination With Section 833

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing rules relating to the removal of the tax-exempt status of organizations described in section 833 of the Internal Revenue Code (relating to certain Blue Cross or Blue Shield organizations and certain other health insurers). The rules were needed because, as a result of the removal of tax-exempt status, such organizations are, for taxable years beginning after 1986, includible corporations under section 1504(b) of the Code.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: David B. Friedel, 202–622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1012 of the Tax Reform Act of 1986 denied, for taxable years beginning after December 31, 1986, tax-exempt status to certain organizations described in section 833(c) of the Internal Revenue Code ("section 833 organizations"), relating to certain Blue Cross or Blue Shield organizations and certain other health insurers. As a result, such organizations became includible corporations under section 1504(b) of the Code. Under § 1.1502–75(d)(1), as a result of a section 833 organization becoming the new common parent of an existing consolidated group ("old consolidated group"), the old consolidated group terminated and a new affiliated group with the section 833 organization as the new common parent was created.

There is no indication that Congress intended the termination of the old consolidated group and the creation of a new affiliated group as a consequence of the denial of tax-exempt status to section 833 organizations.Therefore, on September 14, 1988, the Service announced in Notice 88–107, 1988–2 C.B. 445, that it would promulgate regulations ameliorating the harsh results that would follow from the termination of the old groups.

On September 5, 1990, a notice of proposed rulemaking by cross-reference to temporary regulations adding section 1.1502–75T(d)(5) to part 1 of title 26 of the Code of Federal Regulations was published in the **Federal Register** (55 FR 36290). These regulations adopted a neutrality principle which was intended to preclude treating members of an old group better or worse by reason of the enactment of section 833.

One written comment responding to the proposed rules was received. No public hearing was requested or held. For the reasons set forth below, the proposed rules are adopted without modification.

The written comment objected to the application of the separate return limitation year rules to an old group which elected to be treated as remaining in existence with the section 833 organization as its new common parent. As explained in the explanation of provisions in the temporary regulations, T.D. 8310, 55 FR 36274 (September 5, 1990), the proposed regulations provided a modified rule under which a taxable year beginning before 1987 of a member of an old group that elected to remain in existence is not treated as a separate return limitation year with respect to the post-1986 taxable years of any corporation that was a member of the old group for each day of that taxable year.

Under this modified rule, pre-1987 losses may generally be carried forward to offset the post-1986 income of other members of the same old group, but those losses may not offset the post-1986 income of any other corporation, including the section 833 organization which became the group's new common parent. Thus, the loss carryover treatment of each corporation affiliated with the section 833 organization is generally unaffected by the enactment of section 833. The Service continues to believe that this rule is the proper rule under the neutrality principle.

Special Analyses

These final regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

It is hereby certified that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these rules do not have a significant impact on a substantial number of small entities. The rules will primarily affect consolidated groups, which tend to be larger businesses. The rules will not significantly alter the reporting or recordkeeping duties of small entities. Therefore, a final Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the rules on small businesses.

Drafting Information

The principal author of these regulations is David B. Friedel, of the Office of Assistant Chief Counsel (Corporate) within the Office of Chief Counsel, Internal Revenue Service. Other personnel of the Internal Revenue Service and the Treasury Department participated in developing the regulations.

List of Subjects

26 CFR §§ 1.1502–75 through 1.1502–100

Income taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1502–75T also issued under 26 U.S.C. 1502. * * *

§ 1.1502–75 [Amended]

Par. 2. Section 1.1502–75 is amended by adding and reserving paragraph (d)(4) and by redesignating section 1.1502–75T(d)(5) as section 1.1502–75(d)(5).

§ 1.1502–75T [Amended]

Par. 3. Section 1.1502–75T is amended by revising the section heading to read as set forth below and by removing paragraphs (c) and (d).

§ 1.1502–75T Temporary regulations for filing consolidated returns; coordination with section 338(h)(10) (Temporary).

* * * * *

George O'Hanlon,

Acting Commissioner of Internal Revenue.

Approved: July 31, 1992.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 92–23373 Filed 9–24–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3150 and 3160

[WO–610–4111–24–1A; Circular No. 2646]

RIN: 1004–AC02

Onshore Oil and Gas Geophysical Exploration; Onshore Oil and Gas Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule adds to the regulations on onshore oil and gas geophysical exploration a section governing appeals of decisions and approvals to allow decisions and approvals by an authorized officer to remain in full force and effect when an appeal is filed with the Interior Board of Land Appeal (IBLA), unless sufficient justification for a stay is provided. It

similarly amends the section in the regulations governing appeals of decisions and approvals relating to onshore oil and gas operations to allow the decision of a State Director or Administrative Law Judge to remain in full force and effect during the pendency of an appeal to IBLA. Such provisions are needed to allow the IBLA to determine whether the issues involved in an appeal warrant a stay of onshore oil and gas activities and the accompanying delays and economic consequences. Both full-force-and-effect rules apply to appeals to IBLA only. The rules do not affect the authority of the State Director to grant or deny a request for a stay while a decision is under State Director Review.

EFFECTIVE DATE: October 26, 1992.

ADDRESSES: Inquiries or suggestions should be sent to: Director (610) Bureau of Land Management, Room 501 L Street Building, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, (202) 653–2127.

SUPPLEMENTARY INFORMATION: An interim final rule and a proposed rule with a 30-day comment period were published simultaneously in the **Federal Register** on March 13, 1992 (50 FR 9010 and 9014). The purpose of the proposed rule was to request public review and comment to aid the agency in determining whether or not to publish a subsequent and permanent final rule for the provisions, which would be effective prior to or concurrently with the December 31, 1992, expiration date of the interim final rule. This final rule will supersede the interim final rule upon the date that this rule becomes effective.

Part 3150 establishes procedures for conducting oil and gas geophysical exploration operations when authorization for such operations is required from the Bureau of Land Management (BLM). Part 3160 governs operations associated with the exploration, development, and production of oil and gas deposits from leases issued or approved by the United States. During the comment period, comments were received from 106 sources: 86 from business interests, primarily related to the oil industry; 14 from associations; and 6 from private attorneys. Most of the comments fully supported the proposal to allow decisions and approvals of the BLM authorized officer, State Director, or Administrative Law judge to remain in full force and effect during the pendency of an appeal to IBLA. Some comments, in addition to supporting the proposed rule, suggested specific revisions or recommendations. The comments and BLM's responses to them are discussed below.

Two comments suggested that *ad hoc* advocacy organizations be required by the IBLA to post a bond when requesting a stay in any case under an appeal, as is required by most State and Federal Courts for purposes of protecting the lessee's or permittee's interest during appeal. One other comment suggested that, in order to cover the cost of any economic hardship to the lessee or permittee, any third parties making an appeal should be required to provide a bond. The standards for obtaining a stay require third parties making an appeal to show justification for the stay. Therefore, bonding is not deemed to be necessary.

One comment suggested that the word "subpart" should be changed to "part" in the proposed rule at § 3150.2(b), sentence 2, to assure that the exemption from 43 CFR 4.21(a) includes all subparts of part 3150. Section 4.21(a) of title 43 is an automatic stay provision for decisions that do not fall into any excepting laws or regulations such as are created by this final rule. This comment has been adopted in the final rule for part 3150 and part 3160 in order to remove an unintended inconsistency between the first and second sentences in paragraph (b) and in paragraph (c) of § 3165.4.

One comment suggested that, in order to maintain consistency in the regulations governing IBLA appeals, similar provisions regarding the request for stay should be added to the regulations governing the State Director Review Process at § 3165.3 or that § 3165.3(b) and (d) be amended in the final rule to list specifically "approvals" of the authorized officer. For purposes of § 3165.3(b), "approvals" are encompassed within the meaning of the phrase "decision of the authorized officer." In § 3165.3(d), a State Director's affirmation or denial of an approval of the authorized officer is properly termed a decision. The stay request language is not necessary in § 3165.3 because the ability to grant a stay is inherent in a State Director's authority to conduct an administrative review and the reserved authority over subordinate authorized officers. The delegation of authority to an authorized officer under the jurisdiction of a State Office does not deprive the State Director of any reviewing authority. In addition, specific changes to sections in parts 3150 and 3160 that were not amended in the proposed rule would arguably require separate proposed rulemaking. Therefore, this suggestion was not incorporated in the final rule.

One comment suggested that the current rule at paragraphs 3165.3(e) (1) and (2) be rewritten to incorporate appeals of decisions and approvals of authorized officers that do not address compliance requirements, notices of violations, or penalties. The writer felt that this would maintain consistency with the proposed rule by allowing all decisions to remain in force pending appeal. Current paragraphs 3165.3(e) (1) and (2) specifically address the continuing full force and effect, during a period of State Director review, of notices of noncompliance, notices of violation, or proposed penalties and daily accumulations of penalties that were included in the regulations as a result of the enactment of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701). The suggestion that other types of decisions be added to these two provisions was not adopted in the final rule because a decision or approval normally goes into effect on the effective date of the decision or approval absent a postponement of its effectiveness by the authorized officer or a subsequent stay by the State Director.

Two comments suggested that proposed § 3165.4(c) should refer to decisions and approvals of "State Directors and Administrative Law Judges," rather than decisions and approvals of the "authorized officer." The comments pointed out that, unlike the parallel rule in part 3150 concerning geophysical decisions under which appeals on the merits of decisions and approvals are made directly to the IBLA under 43 CFR 4.21, decisions and approvals of authorized officers affecting the merits of oil and gas operations are appealable under § 3165.3(b) first to the State Director, rather than directly to the IBLA. Because the decisions and approvals of the authorized officer under part 3160 must first be reviewed by the State Director, this recommendation was adopted in the final rule for part 3160. The term "State Director or Administrative Law Judge" replaces the term "authorized officer" in the final rule.

One comment recommended that the rule be amended to include an exception for proposed oil or gas wells located in a Federal potash area or within close proximity to an underground mine to ensure that all safety issues are fully considered before a well is drilled. It is the policy of the BLM to include a provision in oil and gas leases which notifies oil and gas operators that wells may not be allowed in locations that may be hazardous to potash mining operations. Further, by Order of the

Secretary of the Interior, approval is denied for most applications for permits to drill oil and gas wells when wells would be located within potash enclaves. Therefore, provisions are already in place to protect Federal potash areas from oil and gas drilling operations and vice versa. The final rule does not adopt this recommendation.

Some comments reasoned that the proposed rule did not consider long-term impacts of oil and gas operations; that leasing decisions in some areas are made without benefit of environmental review or public input; that current procedures covering the BLM environmental analyses do not provide for meaningful public involvement, nor do those procedures provide an adequate forum for analysis of the true impacts of leasing decisions and that the Resource Management Plan (RMP) sets leasing boundaries without thoroughly examining the impacts of field development. The RMP consists of 9 action steps, including identifying the issues, developing planning criteria, inventorying and data collection, analyzing the management situation, formulating alternatives, analyzing effects of alternatives, selecting the preferred management plan, and monitoring and evaluation. National Environmental Policy Act (NEPA) analyses are made prior to BLM decisions or approvals authorizing oil and gas exploration, leasing, or operational activities. Public participation is encouraged throughout the process. Comments are routinely requested from all interested and affected parties during public scoping meetings, which are held before BLM planning and NEPA documents are initiated. Under usual circumstances, the public is then again requested to review and provide comments on the draft planning document. After the proposed planning document is published, a 30-day protest period is provided. If any protests are filed, administrative review is completed before the plan is approved.

One comment stated that the placement of decisions into immediate full force and effect would negate the purpose and efficacy of appeal procedures. On the contrary, however, the proposed rule in no way reduces public opportunity to file an appeal. In part 3160, two opportunities for appeal remain. A request for a formal review by the State Director is the first opportunity that an adversely affected party must exhaust before seeking further review by the IBLA. By virtue of the State Director's supervisory authority, the State Director has the inherent discretionary authority to review and overturn or modify, if necessary, the decision of subordinates. This inherent discretionary authority to exercise supervisory prerogatives allows the State Director to entertain requests for a stay or to stay the decision's effectiveness on his own initiative. Second, the State Director's decision may be appealed to the IBLA. Under part 3150, an authorized officer's decision may be appealed to the IBLA. Once again, in each case a stay may be requested with a sufficient showing of justification as is required by all Federal judicial bodies. The rule places a reasonable burden on the appellants to show clearly why a stay of approved exploratory or operational activity is warranted without taking away any substantive right of appeal. The rule serves to preserve the right to appeal while at the same time contemplating potential harm to permittees, licensees, lessees, or operators caused by an unwarranted stay.

If a State Director splits his decision into two parts by denying a stay requested by an adversely affected party before reaching a conclusion on the merits of the decision being reviewed under § 3165.3(b), the denial of the stay request constitutes a decision within the meaning of section 3165.4(a) and can be appealed to the IBLA pursuant to § 3165.4(a). The effect of an appeal of a denial of a stay request will be governed, like appeals of other decisions, by the revised § 3165.4(c). The lodging of an appeal of a stay denial will not automatically stay, under 43 CFR 4.21(a), the decision for which the adversely affected party sought a stay. Instead, the revised § 3165.4(c) gives the adversely affected party the opportunity to petition the IBLA for a stay in accordance with the four standards set out in § 3165.4(c). Because, in explaining the effect of appeals, the first sentence of § 3165.4(c) states that all decisions shall remain in effect pending appeal to IBLA, additional language has been added to § 3165.4(c) making it clear that a State Director retains his discretionary authority to grant a request for a stay or to stay on his own initiative the decision that he affirmed, overturned, or denied upon his review while the matter is being appealed to IBLA. If a request for a stay is denied at this stage of the appeals process, the clarifying language gives the adversely affected party the right to petition the IBLA for a stay by addressing the standards for obtaining a stay described in § 3165.4(c). In that instance, as well as with other instances under the rule, the IBLA will, as is provided in the first sentence of § 3165.4(c), base its decision to grant or deny a stay upon consideration of the standards set out in § 3165.4(c).

One comment expressed the concern that, in these situations where BLM has denied a stay, IBLA could not act on a petition for a stay absent having BLM's administrative record. To the contrary, these situations are comparable to a judicial proceeding involving a challenge to agency action in which the court is called upon to act on a motion for a temporary restraining order or a preliminary injunction without having the benefit of the agency's administrative record on the challenged action. Furthermore, 43 CFR 4.411(a) requires an adversely affected party filing an appeal with IBLA to notify the State Director of its appeal, and 43 CFR 4.413(a) requires the appellant to serve the statement of reasons for appeal filed with IBLA on the appropriate official in the Office of the Solicitor of the Department of the Interior representing the affected State Director. By virtue of these provisions, BLM will be notified of the appeal and the reasons that the appellant asserts as warranting a stay of the State Director's decision. If the State Director is concerned that the existence of the appeal or the reasons given by the appellant may lead the IBLA to grant a stay, he can, acting through the Office of the Solicitor, file an expedited response to rebut the appellant's assertions.

Because the revised § 3165.4(c) also concerns effects of an appeal from a decision subject to an appeal under § 3165.4(b), the additional language added in the final rule to § 3165.4(c) clarifies the right of an Administrative Law Judge or a State Director to stay decisions subject to appeal under § 3165.4(b) pending their appeal to IBLA. In addition, the final rule contains parallel language in § 3150.2(b) for decisions subject to appeal under § 3150.2(a).

Some comments stated that the BLM's responsibilities as a land managing agency charged with protection of public resources would be severely undermined by the rule, which the comment stated would elevate the interest of private enterprise over public values. This final rule does not negate BLM responsibility to protect the environment and/or public resources. The intent of the final rule is to attempt to balance the interests of potential appellants with the interests of other affected parties. Before making final decisions, BLM will continue to rely on and comply with requirements for coordination, public input, and environmental documentation in order

to meet and balance these concerns with its multiple-use mission.

Another comment stated that oil and gas operators would have an opportunity to drill during "administrative windows" and the resource would not be protected in the interim; that by permitting operations to remain in effect while an appeal is pending before the IBLA, the rule would allow drilling work to be completed prior to the IBLA rendering a decision; and that automatic stay provisions provide the requisite margin of safety for resource protection pending administrative or judicial review. The BLM, through the NEPA and pre-lease planning processes, has already analyzed any potential environmental impacts due to leasing and subsequent operations, and through the review process, the public has had opportunities to comment. The approval process is designed to identify and address fully all concerns over proposed operations and to require that all potential environmental impacts that might be disclosed in an appeal would have already been assessed and mitigation measures outlined by the time a proposal is approved. Under these circumstances, the requirement for an appellant to justify issuance of a stay order by the IBLA represents a reasonable balance between acceptable risks to the environment or other public interests and responsible challenges to BLM decisionmaking. If an appellant is concerned about the adverse effects of a decision, it is incumbent on the appellant to file a request for a stay or to appeal a decision denying a requested stay quickly.

One comment expressed concern that the BLM was not offering similar protection measures against irreparable harm as are offered under judicial review. However, the continuing availability of a stay upon sufficient showing will guard public resources against irreparable harm. A petition for a stay on administrative review serves the same function as a motion for preliminary injunction on judicial review. Both require a showing of sufficient justification.

Another comment claimed that the proposed rule violated section 102(a) of the Federal Land Policy and Management Act (FLPMA). Section 102(a)(5) is a statement of policy calling on the Secretary to "structure adjudication procedures to assure adequate third party participation." Public participation is afforded by having internal BLM and Department of the Interior appeals procedures whereby adversely affected parties may obtain a review of the decision. Changing the provisions for obtaining a stay does not deprive the public of its ability to challenge BLM decisions. Moreover, section 102(a)(5), as a statement of policy, is not an enforceable provision of FLPMA in any event. See section 102(b) of FLPMA.

One comment asked whether the elimination of the application of 43 CFR 4.21(a) to any decision or approval made under part 3150 or 3160 includes eliminating the 30-day wait provision. The intent of the rule is to eliminate the application to such decisions and approvals of both the automatic stay and the 30-day wait provision.

The principal authors of this final rule are G. Jean Austin, Division of Fluid Minerals, and Christopher N. Gibson, of the Alaska State Office, BLM, assisted by the Office of the Solicitor, Department of the Interior.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule would have no impact on any physical attributes of the public lands or any environmental resource values. By the time of the lodging of an appeal, under standard BLM procedures an environmental review and analysis will have been performed on the activity that is the subject of the appeal. Therefore, no additional environmental analysis is needed merely because the final rule would change the effect of the pendency of an appeal.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, innovation, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Expenses currently being incurred by geophysical exploration operators or lessees/operators of Federal leases will not increase.There are no expected increases in costs or prices for consumers. Costs may actually decline because of a possible decrease in the number of appeals. There would be no need for increase in Federal, State, or local agency budgets or personnel requirements to implement this rule. The gross annual effect on the United States economy is not likely to approach $100 million. Further, for the same reasons, and because the effect of the rule is to restore to small entities the authority to act that had been granted by the BLM, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. It would not infringe any private property rights. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects

43 CFR Part 3150

Oil and gas exploration; Public lands—mineral resources.

43 CFR Part 3160

Environmental protection, oil and gas resources, Government contracts, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: August 24, 1992.

Richard Roldan,

Acting Assistant Secretary of the Interior.

For reasons stated in the preamble, and under the authorities stated below, the interim rule amending Parts 3150 and 3160 of Group 3100, Subchapter C, Chapter II, Subtitle B, of Title 43 of the Code of Federal Regulations published in the **Federal Register** of March 13, 1992, (57 FR 9010) is adopted as final with the following changes:

PART 3150—ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

1. The authority citation for part 3150 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.*, 30 U.S.C. 351–359, 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 3101

et seq., 31 U.S.C. 483a, 42 U.S.C. 6504, 42 U.S.C. 6508.

2. Section 3150.2(b) is revised to read as follows:

§ 3150.2 Appeals.

* * * * *

(b) All decisions and approvals of the authorized officer under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of the authorized officer under this part. A petition for a stay of a decision or approval of the authorized officer shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Nothing in this paragraph shall diminish the discretionary authority of the authorized officer to stay the effectiveness of a decision subject to appeal pursuant to paragraph (a) of this section upon a request by an adversely affected party or on the authorized officer's own initiative. If the authorized officer denies such a request, the requester can petition for a stay of the denial decision by filing a petition with the Interior Board of Land Appeals that addresses the standards described above in this paragraph.

PART 3160—OIL AND GAS OPERATIONS

3. The authority citation for 43 CFR part 3160 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351–359; 30 U.S.C. 301–306; 25 U.S.C. 396; 25 U.S.C. 396a–396g; 25 U.S.C. 397; 25 U.S.C. 398; 25 U.S.C. 398a–398e; 25 U.S.C. 399; 43 U.S.C. 1457, see also Attorney General's Opinion of April 2, 1941 (40 Op.Atty.Gen 41); 40 U.S.C. 471 *et seq.*; 42 U.S.C. 4321 *et seq.*; 42 U.S.C. 6508; Pub. L. 97–78; 30 U.S.C. 1701 *et seq.*; and 25 U.S.C. 2102.

4. Section 3165.4 is amended by revising paragraph (c) to read as follows:

§ 3165.4 Appeals.

* * * * *

(c) *Effect of an appeal on an approval/decision by a State Director or Administrative Law Judge.* All decisions and approvals of a State Director or Administrator Law Judge under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of a State Director or Administrative Law Judge under this part. A petition for a stay of a decision or approval of a State Director or Administrative Law Judge shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Nothing in this paragraph shall diminish the discretionary authority of a State Director or Administrative Law Judge to stay the effectiveness of a decision subject to appeal pursuant to paragraph (a) or (b) of this section upon a request by an adversely affected party or on the State Director's or Administrative Law Judge's own initiative. If a State Director or Administrative Law Judge denies such a request, the requester can petition for a stay of the denial decision by filing a petition with the Interior Board of Land Appeals that addresses the standards described above in this paragraph.

[FR Doc. 92–23220 Filed 9–24–92; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–104; RM–7972]

Radio Broadcasting Services; Lake City, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel *285A to Lake City, Michigan, and reserves the channel for noncommercial educational use in response to a petition filed by New Horizons Broadcasting Company. See 57 FR 21761, May 22, 1922. Canadian concurrence has been received for this allotment at coordinates 44–19–48 and 85–12–42. No site restriction has been imposed on this allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 5, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–104, adopted August 10, 1992, and released September 21, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Lake City, Channel *285A.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–23350 Filed 9–24–92; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–102; RM–7969]

Radio Broadcasting Services; Pequot Lakes, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 274C2 for Channel 261A and modifies the license for Station KTIG at Pequot Lakes, Minnesota, to specify operation on Channel 274C2 in response to a petition filed by Minnesota Christian Broadcasters, Inc. See 57 FR 21055, May 18, 1992. Canadian concurrence has been received for this allotment at coordinates 46–36–06 and

94–18–55. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 5, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–102, adopted August 10, 1992, and released September 21, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 261A and adding Channel 274C2 at Pequot Lakes.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–23349 Filed 9–24–92; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, amends the Table of FM Allotments to specify the correct classes of channels allotted to various communities. These amendments are necessary to reflect changes that have been authorized in response to applications filed by licensees and permittees operating on these channels. This action constitutes an editorial change in the Table of FM Allotments. Therefore, a public notice and comment proceeding is unnecessary. See 5 U.S.C. 553(b) (A) and (B). With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, adopted August 10, 1992, and released September 21, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 242C and adding Channel 242C1 at Blytheville, by removing Channel 275C and adding Channel 275C1 at Harrison, and by removing Channel 274C2 and adding Channel 274C3 at Van Buren.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 271C and adding Channel 271C1 at Clifton, by removing Channel 296C1 and adding Channel 296C3 at Colorado City, by removing Channels 260C1 and 290C and adding Channels 260C2 and 290C1 at Kingman, by removing Channel 266C and adding Channel 266C1 at Payson, by removing Channel 294C and adding Channel 294C1 at Pinetop, and by removing Channel 241C and adding Channel 241C1 at Window Rock.

4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 222C and adding Channel 222C1 at Eureka, and by removing Channel 242C2 and adding Channel 242C3 at Susanville.

5. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 289C2 and adding Channel 289C3 at Ouray.

6. Section 73.202(b), the FM Table of Allotments under Florida, is amended by removing Channels 254C and 258C and adding Channels 254C1 and 258C1 at Key West, and by removing Channel 223C and adding channel 223C1 at Panama City.

7. Section 73.202(b), the FM Table of Allotments under Hawaii, is amended by removing Channel 224C1 and adding Channel 224C3 at Hilo, and by removing Channel 268C and adding Channel 268C3 at Kealakekua.

8. Section 73.202(b), the FM Table of Allotments under Iowa, is amended by removing Channel 239C2 and adding Channel 239C3 at Webster City.

9. Section 73.202(b), the FM Table of Allotments under Idaho, is amended by removing Channel 223C and adding Channel 223A at Rupert.

10. Section 73.202(b), the FM Table of Allotments under Kansas, is amended by removing Channel 250C and adding Channel 250C1 at Colby, by removing Channel 273C and adding Channel 273C1 at Goodland, and by removing Channel 279C and adding Channel 279C1 at Wichita.

11. Section 73.202(b), the FM Table of Allotments under Kentucky, is amended by removing Channel 270C and adding Channel 270C1 at Central City, and by removing Channel 289B1 and adding Channel 289C3 at Greenup.

12. Section 73.202(b), the FM Table of Allotments under Louisiana, is amended by removing Channel 232C2 and adding Channel 232C3 at Galliano.

13. Section 73.202(b), the FM Table of Allotments under Maine, is amended by removing Channel 297B and adding Channel 297C2 at Old Town.

14. Section 73.202(b), the FM Table of Allotments under Michigan, is amended by removing Channel 242C and adding Channel 242C1 at Houghton, and by removing Channel 255C and adding Channel 255C1 at Petoskey.

15. Section 73.202(b), the FM Table of Allotments under Montana, is amended by removing Channel 269C and adding Channel 269C1 at Laurel.

16. Section 73.202(b), the FM Table of Allotments under North Dakota, is amended by removing Channel 300C and adding Channel 300C1 at Fargo.

17. Section 73.202(b), the FM Table of Allotments under New Mexico, is amended by removing Channel 281C and adding Channel 281C1 at Carlsbad, by removing Channel 265C2 and adding Channel 265A at Grants, and by removing Channel 263C and adding Channel 263C1 at Roswell.

18. Section 73.202(b), the FM Table of Allotments under New York, is amended by removing Channel 248C and adding Channel 248C1 at Watertown.

19. Section 73.202(b), the FM Table of Allotments under Oklahoma, is amended by removing Channel 291C2 and adding Channel 291C3 at Broken Bow, and by removing Channel 258C2 and adding Channel 258A at Lawton.

20. Section 73.202(b), the FM Table of Allotments under Oregon, is amended

by removing Channel 267C and adding Channel 267C1 at Altamont, by removing Channel 278C and adding Channel 278C1 at Medford, and by removing Channel 275C and adding Channel 275C1 at Redmond.

21. Section 73.202(b), the FM Table of Allotments under South Carolina, is amended by removing Channel 241C and adding Channel 241C1 at Hanahan.

22. Section 73.202(b), the FM Table of Allotments under Tennessee, is amended by removing Channel 283C and adding Channel 283C1 at Memphis.

23. Section 73.202(b), the FM Table of Allotments under Texas, is amended by removing Channel 286C and adding Channel 286C1 at Abilene, by removing Channels 245C and 270C and adding Channels 245C1 and 270C1 at Amarillo, by removing Channel 253C3 and adding Channel 253A at Clarksville, by removing Channel 240C3 and adding Channel 240A at Dalhart, by removing Channel 284C2 and adding Channel 284C3 at Llano, by removing Channel 291C2 and adding Channel 291C3 at Refugio, and by removing Channel 226C and adding Channel 226C1 at Tyler.

24. Section 73.202(b), the FM Table of Allotments under Washington, is amended by removing Channel 287C and adding Channel 287C1 at Edmonds, and by removing Channel 264C2 and adding Channel 264C3 at Walla.

25. Section 73.202(b), the FM Table of Allotments under Wisconsin, is amended by removing Channel 296C2 and adding Channel 296C3 at New Richmond.

26. Section 73.202(b), the FM Table of Allotments under Wyoming, is amended by removing Channel 225C and adding Channel 225C1 at Buffalo.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-23284 Filed 9-24-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-416; RM-6700, RM-6858, RM-7207, RM-7208, RM-7209]

Radio Broadcasting Services; Metropolis, IL, Clinton and Wickliffe, KY; Camden, Dyer and Henderson, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 252C2 for Channel 252A at Metropolis, Illinois, and modifies the license for Station WRIK(FM) accordingly; substitutes Channel 240A for Channel 252A at Camden, Tennessee, and modifies the license for Station WRJB(FM) to specify Channel 240A; and substitutes Channel 239A for Channel 240A at Henderson, Tennessee, modifies the license for Station WFKX(FM) to specify Channel 239A, at the request of Samuel K. Stratemeyer/Sun Media, Inc. In addition, this action also allots Channel 232A to Dyer, Tennessee, as a first local FM service. *See* 54 FR 40893, October 4, 1989, and Supplemental Information, *infra*.

DATES: Effective November 5, 1992. The window period for filing applications for Dyer, Tennessee, will open on November 6, 1992, and close on December 7, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order MM Docket No. 89-416, adopted August 11, 1992, and released September 21, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

Channel 252C2 can be allotted to Metropolis, Illinois, in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.6 kilometers (10.3 miles) southeast. The coordinates are North Latitude 37-02-30 and West Longitude 88-36-00. Channel 240A can be allotted to Camden, Tennessee, in compliance with the Commission's minimum distance separation requirements and can be used at Station WRJB(FM)'s present transmitter site. The coordinates are North Latitude 36-03-25 and West Longitude 88-06-10. Channel 239A can be allotted to Henderson, Tennessee, in compliance with the Commission's minimum distance separation requirements and can be used at Station WFKX(FM)'s present transmitter site. The coordinates are North Latitude 35-29-52 and West Longitude 88-42-29. Channel 232A can be allotted to Dyer, Tennessee, in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.5 kilometers (5.3 miles) northwest, at coordinates North Latitude 36-05-53 and West Longitude 89-04-41. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [AMENDED]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 252A and adding Channel 252C2 at Metropolis.

3. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 252A and by adding Channel 240A at Camden, by removing Channel 240A and by adding Channel 239A at Henderson, and by adding Dyer, Channel 232A.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-23346 Filed 9-24-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 89-552; DA 92-1234]

Use of the 220-222 MHz Band by the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Technical amendment to final rule.

SUMMARY: The Commission has released a Second Erratum in PR Docket No. 89-552 (DA 92-1234). The purpose of the Second Erratum is to correct and clarify rule changes adopted in the Memorandum Opinion and Order in this proceeding. Certain of these rule changes were not consistent with the clear intention of the Commission expressed in the text of the Memorandum Opinion and Order. The rules relate to various procedures associated with the licensing of channels in the 220-222 MHz band.

EFFECTIVE DATE: October 20, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: On April 17, 1991, the Commission released a Report and Order (FCC 91-74) in PR Docket No. 89-552. On July 16, 1992, the Commission released a Memorandum Opinion and Order (FCC 92-261), 57 FR

32448, July 22, 1992, addressing several issues raised on reconsideration of the Report and Order, as well as the issues presented in a Further Notice of Proposed Rule Making in this proceeding. On September 11, 1992, the Commission released a Second Erratum (DA 92-1234) correcting and clarifying rule changes adopted in the Memorandum Opinion and Order. The full text of this Second Erratum is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M St. NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M St., NW., suite 640, Washington, DC 20036, telephone (202) 452-1422.

Amendatory Text

47 CFR part 90 is amended as follows:

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303, and 332, unless otherwise noted.

2. 47 CFR 90.713 is amended by revising paragraphs (a)(4), (a)(5), (b), and (c)(3), and by adding a new paragraph (c)(4) to read as follows:

§ 90.713 Entry criteria.

(a) * * *

(4) Applicants for commercial nationwide channels must include an itemized estimate of the cost of constructing 40 percent of the system and operating the system during the first four years of the license term. Applicants for non-commercial nationwide channels must include an itemized estimate of the cost of constructing the entire system within five years and operating the system during the first five years of the license term.

(5) Applicants for commercial nationwide channels must include proof that the applicant has sufficient financial resources to construct 40 percent of the system and operate the proposed system for the first four years of the license term; i.e., that the applicant has net current assets sufficient to cover estimated costs or a firm financial commitment sufficient to cover estimated costs. Applicants for non-commercial nationwide channels must include proof that the applicant has sufficient financial resources to construct the entire system within five years of the license grant and operate the proposed system for the first five years of the license term; i.e., that the applicant has net current assets to cover estimated costs or a firm financial commitment sufficient to cover estimated costs.

* * * * *

(b) Applicants for commercial and non-commercial nationwide licensing relying on personal or internal resources for the showing required in paragraph (a) of this section must submit independently audited financial statements certified within one year of the date of the application showing net current assets sufficient to meet estimated construction and operating costs. Applicants for both commercial and non-commercial nationwide licensing must also submit an unaudited balance sheet, current within 60 days of the date of submission, that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed system, and a certification by the applicant or an officer of the applicant organization attesting to the validity of the balance sheet.

(c) * * *

(3) Is willing, if the applicant is seeking a commercial nationwide license, to provide a sum to the applicant sufficient to cover the realistic and prudent estimated costs of construction of 40 percent of the system and operation of the system for the first four years of the license term; and

(4) Is willing, if the applicant is seeking a non-commercial nationwide license, to provide a sum to the applicant sufficient to cover the realistic and prudent estimated costs of construction of a minimum of at least one base station in at least 70 different geographic areas designated in the application within five years of receiving a license, and operation of the system for the first five years of the license term.

* * * * *

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 92-23008 Filed 9-24-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB67

Endangered and Threatened Wildlife and Plants; Correction to Final Rule Listing the Kanab Ambersnail as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction to final regulation.

SUMMARY: The Fish and Wildlife Service corrects the final regulation published Friday, April 17, 1992 (57 FR 13657) that listed the Kanab ambersnail as an endangered species. An incomplete scientific name was given in the table entry at 57 FR 13661. A correction is provided.

EFFECTIVE DATE: September 25, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Larry R. Shannon, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service (452-ARLSQ), Washington, DC 20240 (703-358-2171).

SUPPLEMENTARY INFORMATION:

Background

As published, the final regulation contains the scientific name of the full species, *Oxyloma haydeni*, although the preamble continuously refers to just the Kanab subspecies, *Oxyloma haydeni kanabensis*. This error could cause confusion and might prove misleading; a correction is provided below. Accordingly, the publication of April 17, 1992, of the final regulation amending 50 CFR 17.11(h), which was the subject of FR Doc. 92-8955, is corrected as follows:

§ 17.11 [Corrected]

At 57 FR 13661, in § 1711(h) the table entry under the "Scientific name" is corrected by adding the word "*kanabensis*" to read "*Oxyloma haydeni kanabensis*"; further, the numbers under "When listed" are revised to read "431E, 459, 477".

Dated: September 14, 1992.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-23368 Filed 9-24-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 920407-2159]

Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Partial closure of general category set-aside fishing for large medium and giant Atlantic bluefin tuna.

SUMMARY: NMFS closes the fishery for Atlantic bluefin tuna conducted by vessels permitted in the General category and fishing for large medium and giant Atlantic bluefin tuna for the

waters between Cape Cod, Massachusetts and Long Island, New York. Closure of this segment of the fishery is necessary because it has been determined that the first half of the 40-metric ton (mt) set-aside amount, will be attained by September 23, 1992. Vessels permitted in the General category may continue to fish for and retain bluefin tuna for the remaining 20-mt of the 40-mt set-aside in the area that includes the waters west of a straight line originating at a point on the southern shore of Long Island, New York, at 72°50' W. longitude and running SSE 150° true. The intent of this action is to prevent overharvest of the quota established for this fishery while providing a fishing opportunity in areas of the New York Bight and south.

EFFECTIVE DATES: The closure is effective from 0001 hours local time on September 24, 1992, through December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971th regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction appear at 50 CFR part 285.

Section 285.22(a) of the regulations provides for an annual quota of 531 mt of large medium and giant Atlantic bluefin tuna to be harvested from the Regulatory Area by vessels permitted in the General category. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) is required under § 285.20(b)(1) to monitor the catch and landing statistics, and on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the category of gear subject to the quotas. In the case of the General category, under § 285.22(a) the Assistant Administrator may set aside an allocation for an identified area, not to exceed the greater of 40 mt or the maximum reported landings from the identified area in any of the preceding 3 years. This set-aside is made when the Assistant Administrator has determined, based on landings reports, that fishermen in an identified area will be precluded from harvesting their share of the quota due to variations is seasonable distribution, abundance, or migration patterns and the catch rate. In addition, the governing regulations require the daily catch limit for the identified area to be set at one large medium or giant Atlantic bluefin tuna per day per vessel.

Based on landings reports, the Assistant Administrator determined in a separate closure notice in the **Federal Register** (September 16, 1992) that the quota of Atlantic bluefin tuna allocated for the General category, minus a 40-mt set-aside amount, had been attained. Vessels permitted in the General category were allowed to continue to fish in the area that included the waters of Narragansett Bay, Buzzards Bay, Pleasant Bay, and all waters south of a straight line originating at a point on the southeastern shore of Cape Cod at 41°45' N. latitude (near the north end of Pleasant Bay) and running East 90° true, until 20-mt of the 40-mt set aside were harvested and NMFS published a notice of closure for that 20-mt allocation. When the first 20-mt of the 40-mt set-aside was reached, it was stated that vessels permitted in the General category would be allowed to continue to fish for and retain the remaining 20-mt of the set-aside in the area west of a straight line originating at a point on the southern shore of Long Island at 72°50' W. longitude (near the town of Moriches) and running SSE 150° true. The intent of this action was to prevent overharvest of the quota established for this fishery while providing a fishing opportunity in areas south of Cape Cod.

Based on landing reports, the Assistant Administrator has determined that the first half of the 40-mt set-aside has been attained. Vessels permitted in the General category are allowed to continue to fish in the area that includes the waters west of a straight line originating at a point on the southern shore of Long Island at 72°50' W. longitude (near the town of Moriches) and running SSE 150° true. The intent of this action is to prevent overharvest of the quota established for this fishery while providing a fishing opportunity in areas south of Long Island.

Classification

Notice of this action will be faxed to Atlantic bluefin tuna dealers and fisherman, several industry publications, associations, and state agencies. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 18, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–23266 Filed 9–24–92; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 911172–2021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of directed fishing.

SUMMARY: NMFS is closing the directed fishery for pollock by the inshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the total allowable catch (TAC) for pollock assigned to the inshore component in the BS.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), September 22, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS 907/586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The current allowance of pollock TAC to the inshore component in the BS is 247,390 metric tons (57 FR 32925, July 24, 1992).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the pollock allowance available for harvest by the inshore component in the BS will soon be reached. Therefore, NMFS is establishing a directed fishing allowance of 244,000 mt, and is setting aside the remaining 3,390 mt as bycatch to support other anticipated fisheries.

The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the BS by the inshore component effective from 12 noon, A.l.t., September 22, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

(Authority: 16 U.S.C. 1801 *et seq.*]

Dated: September 21, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-23369 Filed 9-22-92; 2:23 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 187
Friday, September 25, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend the current regulations to emphasize the requirement for local Federal activities to cooperate with local wage survey committees and appoint and release employees to participate in Federal Wage System (FWS) surveys unless exceptional circumstances prohibit their appointment or release. Because of occasional difficulties encountered in releasing local employees from their normal work assignments to participate in the FWS wage survey process, members of the Federal Prevailing Rate Advisory Committee (FPRAC) expressed concern that local Federal activities do not understand the importance of FWS surveys. This OPM action clarifies the intent of the current regulations and documents some practices previously contained in Federal Personnel Manual (FPM) guidance.

DATES: Comments must be received on or before October 26, 1992.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts, (202) 606–2848.

SUPPLEMENTARY INFORMATION: Sections 5343(b) and (c)(2) of title 5, United States Code, require that local wage surveys for determining prevailing rates be conducted each year and that recognized employee organizations be allowed to participate at all levels of the process. Section 532.231 of title 5, Code of Federal Regulations, requires the heads of local activities in an FWS wage area to provide "wage survey committee members, data collectors, and any other assistance requested by the local wage survey committee." This includes the provision of both labor and agency representatives to serve as committee members and data collectors.

Recent difficulties have demonstrated that the heads of local activities were not always aware of their wage survey responsibilities and occasionally did not cooperate fully with local wage survey committees in selecting, appointing, and releasing employees to participate in the wage survey process. The labor members of FPRAC presented this problem to FPRAC and requested that the current regulations be revised to emphasize that data collectors should be excused from their normal work assignments to participate in the FWS wage survey process. OPM also has issued an Interagency Advisory Group memorandum to all personnel directors to address the problem and stress the importance of releasing employees to participate in the FWS wage survey process. After extended discussions, FPRAC, by consensus, recommended that OPM amend the existing regulations in §§ 532.229, 532.231, and 532.233 of title 5, Code of Federal Regulations, as indicated in these proposed regulations. The proposed regulations are not intended to change existing policy, but to clarify the intent of the regulations and document some practices previously contained in FPM guidance.

The primary purpose of this regulatory amendment is to emphasize that local activities must cooperate with local wage survey committees and appoint and release those employees nominated by the labor organizations and by Federal agencies to participate in wage surveys unless exceptional circumstances are encountered. Items considered in the selection and appointment process include the requirement in the prevailing rate law for labor and agency representatives to participate in the wage survey process, the qualifications of the nominated employees, the need of the employee' work units for their presence on the job, and the prudent management of available financial and human resources. Refusal to release appointees is to be based upon a demonstrated requirement, directly related to their work units' missions, for their presence on their regular jobs.

The regulations also clarify that when employees cannot be appointed to serve as data collectors or committee members because of exceptional circumstances, additional nominations must be provided expeditiously to avoid any delay in the survey process. FWS wage surveys occur within a restricted statutory timeframe that does not provide additional time for the resolution of internal disputes on releasing employees.

In addition, the proposed regulations describe the requirement for nominating and appointing alternate data collectors to supplement regular data collectors. This practice was previously documented only in the FPM.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for 5 CFR part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

2. In § 532.229, new paragraphs (b)(5) and (6) are added to read as follows:

§ 532.229 Local wage survey committee.

* * * * *

(b) * * *

* * * * *

(5) In selecting and appointing employees recommended by labor organizations and by Federal agencies to serve as committee members, consideration shall be given to the requirement in the prevailing rate law for labor and agency representatives to participate in the wage survey process, the qualifications of the recommended employees, the need of the employees' work units for their presence on the job, and the prudent management of available financial and human resources. Employing agencies and activities shall cooperate and appoint the recommended employees unless exceptional circumstances prohibit their consideration. When the recommended employees cannot be appointed to serve as local wage survey committee members, the responsible lead agency or labor organization shall provide additional recommendations expeditiously to avoid any delay in the survey process.

(6) Employers shall cooperate and release appointed employees for committee proceedings unless the employers can demonstrate that exceptional circumstances directly related to the accomplishment of the work units' missions require their presence on their regular jobs. Employees serving as committee members are considered to be on official assignment to an interagency function, rather than on leave.

* * * * *

3. In § 532.231, paragraph (c)(2) is revised to read as follows:

§ 532.231 Responsibilities of participating organizations.

* * * * *

(c) * * *

(2) Heads of local activities. The head of each activity in a wage area is responsible for providing employment information, wage survey committee members, the prescribed number of data collectors, and any other assistance needed to conduct local wage survey committee functions.

* * * * *

4. In § 532.233, paragraph (e) is revised to read as follows:

§ 532.233 Preparation for full-scale wage surveys.

* * * * *

(e) Selection and appointment of data collectors.

(1) The local wage survey committee, after consultation with the lead agency, shall determine the number of regular and alternate data collectors needed for the survey based upon the estimated number and location of establishments to be surveyed.

(2) Wage data for appropriated fund surveys shall be collected by teams consisting of one local Federal Wage System employee recommended by the committee member representing the qualifying labor organization and one Federal employee recommended by Federal agencies. The data collectors shall be selected and appointed by their employing agency.

(3) Wage data for nonappropriated fund surveys shall be collected by teams, each consisting of one local nonappropriated fund employee recommended by the committee member representing the qualifying labor organization and one nonappropriated fund employee recommended by nonappropriated fund activities. The data collectors shall be selected and appointed by their employing agency.

(4) The local wage survey committee shall provide employers with the names of employees recommended by labor organizations and by Federal agencies to serve as data collectors and shall indicate the number of regular and alternate data collectors to be selected and appointed by the employers.

(5) In selecting and appointing employees recommended by labor organizations and by Federal agencies to serve as data collectors, consideration shall be given to the requirement in the prevailing rate law for labor and agency representatives to participate in the wage survey process, the qualifications of the recommended employees, the need of the employees' work units for their presence on the job, and the prudent management of available financial and human resources. Employing agencies and activities shall cooperate and appoint the recommended employees unless exceptional circumstances prohibit their consideration. When the required number of employees cannot be appointed to serve as data collectors from among those recommended, the local wage survey committee shall obtain additional recommendations expeditiously to avoid any delay in the survey process.

(6) Employers shall cooperate and release appointed employees to serve as data collectors throughout the duration of the data collection period unless the employers can demonstrate that exceptional circumstances directly related to the accomplishment of the work units' missions require their presence on their regular jobs. Employees serving as data collectors are considered to be on official assignment to an interagency function, rather than on leave.

* * * * *

[FR Doc. 92-23304 Filed 9-24-92; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1007, 1011, 1030, 1033, 1036, 1040, 1044, 1046, 1049, 1065, 1068, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1124, 1126, 1131, 1135, 1138

[Docket No. AO-14-A65-R02, etc; DA-91-013]

Milk in the New England and Certain Other Marketing Areas; Notice of Reopened Hearing on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Marketing area	AO Nos.
1001	New England	AO-14-A65-R02
1002	New York-New Jersey.	AO-71-A80-R02
1004	Middle Atlantic	AO-160-A68-R02
1005	Carolina	AO-388-A5-R02
1007	Georgia	AO-366-A34-R02
1011	Tennessee Valley	AO-251-A36-R02
1030	Chicago Regional	AO-361-A29-R02
1033	Ohio Valley	AO-166-A62-R02
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A57-R02
1040	Southern Michigan	AO-225-A43-R02
1044	Michigan Upper Peninsula.	AO-299-A27-R02
1046	Louisville-Lexington-Evansville.	AO-123-A63-R02
1049	Indiana	AO-319-A40-R02
1065	Nebraska-Western Iowa.	AO-86-A48-R02
1068	Upper Midwest	AO-178-A46-R02
1079	Iowa	AO-295-A42-R02
1093	Alabama-West Florida.	AO-386-A12-R02
1094	New Orleans-Mississippi.	AO-103-A54-R02
1096	Greater Louisiana	AO-257-A41-R02
1097	Memphis, Tennessee.	AO-219-A47-R02
1098	Nashville, Tennessee.	AO-184-A56-R02
1099	Paducah, Kentucky	AO-183-A46-R02
1106	Southwest Plains	AO-210-A53-R02
1108	Central Arkansas	AO-243-A44-R02
1124	Pacific Northwest	AO-368-A20-R02
1126	Texas	AO-231-A61-R02
1131	Central Arizona	AO-271-A30-R02
1135	Southwestern Idaho-Eastern Oregon.	AO-380-A10-R02
1138	New Mexico-West Texas.	AO-335-A37-R02

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of reopened public hearing on proposed rulemaking.

SUMMARY: A hearing involving 29 markets that was held in the summer of 1991 is being reopened to consider the establishment of Class III–A pricing on an emergency basis in such markets. The hearing also will consider the appropriate nonfat dry milk price to be used in computing any Class III–A prices. The reopening was requested by a number of interested parties.

DATES: The hearing will reconvene at 9 a.m. local time on October 5, 1992.

ADDRESSES: The hearing will be held at the Ramada Hotel—Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314 (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a "small business; if it has an annual gross revenue of less than $500,000, and a daily products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing issues on small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with these rules.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his/her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

It is noted that the original hearing notice for this proceeding listed 31 milk orders. The initial number of markets involved has been reduced to 29 as a result of the consolidation of three southwest markets (Lubbock-Plainview, Rio Grande Valley and Texas Panhandle) into a new single order designated as the New Mexico-West Texas marketing area.

Prior documents in this proceeding:

Notice of Hearing: Issued July 16, 1991; published July 22, 1991 (56 FR 33396).

Tentative Decision: Issued December 10, 1991; published December 191, 1991 (56 FR 65801) and corrected December 23, 1991 (56 FR 66482).

Revised Tentative Decision: Issued December 24, 1991; published January 2, 1992 (57 FR 15).

Interim Amendment of Orders: Issued December 27, 1991; published January 3, 1992 (57 FR 173).

Notice of Reopened Hearing: Issued August 11, 1992; published August 14, 1992 (57 FR 36609).

Notice is hereby given of a reopened public hearing to be held in response to petitions from a number of interested parties. The reopened hearing will begin at 9 a.m. local time on October 5, 1992. The hearing will consider the establishment of Class III–A pricing for all of the markets involved in this processing. The hearing also will consider what nonfat dry milk price should be used to compute any Class III–A prices. As a result of recent difficulties in reporting separate Extra Grade and Grade A nonfat dry milk prices, Dairy Market News plans to combine the two separate prices. Evidence also will be taken to determine whether emergency marketing conditions exist to such an extent that expedited action is warranted.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the issues identified above and any appropriate modification to the tentative marketing agreements and the orders. There is no proposed amendment that has received the final approval of the Secretary of Agriculture.

This is the second reopening of a hearing that was initiated last summer to consider the establishment of a separate class and price (III–A) for milk used to make butter and nonfat dry milk under 31 orders. The intent of the original proposals by operating cooperatives was to price such milk on the basis of market prices for butter and nonfat dry milk rather than the currently used Minnesota-Wisconsin price.

The Department issued a tentative decision on this issue last December, adopting the new pricing for nonfat dry milk only and for just three orders—New England, Middle Atlantic, and Pacific Northwest. Because of the emergency nature of the issue, a tentative decision was issued so that the pricing changes could be implemented on an interim basis while public comments were being received on the decision.

The price changes were blocked, however, when a major cooperative in the Southeast obtained a temporary restraining order. On August 4, 1992, the U.S. District Court for the Western District of Kentucky at Louisville issued an opinion and order regarding the merits of the case and the continuation of the restraining order. The Court rules that the Department's adoption of the new Class III–A price for three orders was substantially valid, but that the Department erred in the manner in which it arrived at the yield factor that was incorporated in the Class III–A price formula.

On this basis, the Court enjoined the Department from implementing the price changes until all interested parties had been given a further opportunity to address the question of what the yield factor in the Class III–A price formula should be. The most practical way to accomplish the Court's instruction was to reopen the hearing. Since the proper yield factor was the only matter that the Court believed needed to be addressed, the reopened hearing that was held on August 20, 1992, was limited to this single issue of the three markets where pricing changes were tentatively adopted. A tentative decision on that matter is pending on the basis of the evidence presented at the reopened

hearing and may not be delayed pending this reopening.

A number of handlers and operating cooperatives from various sections of the country have requested the hearing be reopened to take additional evidence on all issues. Even in the three orders where an interim final rule was promulgated, the evidentiary basis has had an additional 14 months experience that could be considered. This reopening of the hearing will, thus, encompass all 29 orders and all issues.

Interested parties who wish to introduce exhibits at the reopened hearing should provide the Presiding Officer at the hearing with six copies of such exhibits for the Official Record.

Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1001, 1002, 1004, 1005, 1007, 1011, 1030, 1033, 1036, 1040, 1044, 1046, 1049, 1065, 1068, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1124, 1126, 1131, 1135, 1138

Milk marketing orders.

The authority citation for the aforesaid 7 CFR parts continues to read as follows:

Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Copies of this reopened hearing notice may be obtained from any market administrator or from the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected here.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Offices of the Market Administrators for the aforementioned Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: September 22, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92–23437 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy—Limitations on Loan Purposes

AGENCY: Small Business Administration (SBA)

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would formalize a longstanding SBA practice against making or guaranteeing a loan to an applicant under section 7(a) of the Small Business Act (the "Act") if the Agency had previously incurred a loss (which remains outstanding) in connection with an earlier section 7(a) loan or guaranty with respect to the applicant (or its predecessor) or to any business controlled by the same person(s) who controlled an applicant on which a loss was incurred.

DATES: Comments must be submitted on or before October 26, 1992.

ADDRESSES: Comments may be mailed to Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202/205–6490.

SUPPLEMENTARY INFORMATION: Presently, SBA will not make or guarantee a loan to an applicant under Section 7(a) of the Act if the Agency had incurred a loss (which remains outstanding) in connection with an earlier section 7(a) loan or guaranty with respect to the applicant or a business controlled by the same person(s) who controlled an applicant on which a loss was incurred. While this position represents longstanding Agency practice, SBA is concerned that it is not being implemented uniformly. The proposed regulation, if finalized, would ensure consistent application of this practice.

Under this proposed rule, SBA would not provide section 7(a) direct or guaranteed loan assistance to an applicant small business concern if the Agency had incurred a loss under section 7(a) of the Act on a prior loan to the applicant (or its predecessor) or to any business controlled by the same person(s) who controls the applicant. This prohibition would apply so long as the earlier loss remained outstanding on the books of SBA.

Under the regulation as proposed, "control" would mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a small business concern, whether through the ownership of voting shares, by contract, position, or otherwise. Control may be affirmative or negative and it would be immaterial whether it was exercised so long as the power to control existed. In addition to stock ownership, control could arise through the occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. The Agency has had experience in interpreting this terminology because similar language appears in part 121 of SBA regulations (13 CFR part 121).

Under the proposed regulation a "loss" would mean the discrepancy between an amount owed to the Agency and the amount collected by the Agency and recognized by SBA when the Agency has not been fully reimbursed (1) from the sale or other disposition of collateral after a debtor's default on a direct SBA loan or after SBA has honored its guaranty with respect to a guaranteed 7(a) loan, (2) as a result of the execution of a compromise agreement, or (3) as a result of the bankruptcy of the debtor. When SBA makes payment under its guaranty with respect to a guaranteed 7(a) loan because of the debtor's default, it reflects such payment on its records and it then seeks to be reimbursed from the sale or other disposition of the underlying collateral. Similarly, when SBA makes a direct loan to a business and the debtor defaults on the loan SBA forecloses on the collateral and attempts to be reimbursed for its loss by the sale or other disposition of the property. To the extent that the proceeds from such sale or disposition do not reimburse the Agency in full for the direct loan or for the funds paid to honor its guaranty, it has incurred a loss. If SBA has entered into a compromise with a borrower, the Agency has agreed to accept an amount from the borrower less than that which would have fully reimbursed the Agency. (A compromise may excuse the business concern from making full payment on its existent financial obligation, but the Agency loss remains outstanding on its books). That the loss in such a situation has been the result of a contract makes it no less a loss which SBA must recognize. Similarly, in the case of a bankruptcy, the Agency sometimes is compelled by law to

accept less recompense then owed when business's debts are being discharged in bankruptcy, but the loss to the Agency would still be considered to exist on its books under this proposed regulation.

As a housekeeping function, by this rulemaking SBA is also proposing to eliminate the asterisk at the end of § 120.102, together with the editorial note to which it refers, since SBA plans no correction document as mentioned in the note.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Paperwork Reduction Act, 44 U.S.C. cu. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities.

SBA certifies that this proposed rule, if promulgated in final, will not constitute a major rule for the purposes of Executive Order 12291, since the proposed changes are not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This proposed rule, if promulgated as final, would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Further, for purposes of Executive Order 12778, SBA certifies that this proposed rule, if promulgated in final, is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.102 would be amended by adding a new subsection 120.102–12 to read as follows:

§ 120.102 Limitations on loan purposes.

Small manufacturers, wholesalers, retailers, service concerns and other firms may borrow to finance construction, conversion or expansion; to purchase equipment, facilities, machinery, supplies or materials; to obtain working capital; or, at the discretion of SBA, to refinance outstanding notes payable. For additional special rules applicable to refinancing loans, see § 122.7–3(c). Financial Assistance shall not be granted if the direct or indirect purpose or result of granting the loan would be to:

* * * * *

§ 120.102–12 Loss previously incurred by SBA.

(a) *Loss on prior loan or guaranty.* Assist an applicant where SBA had incurred a loss on a prior direct or guaranteed loan (and that loss remains outstanding) to (1) The same applicant (whether a proprietorship, partnership or corporation) of its predecessor; (2) Any business entity in which a principal was a principal in an entity on which a previous loss was incurred; or (3) Any business entity controlled by the same person(s) who controlled a borrower on which SBA sustained a previous loss. This rule is applicable regardless of whether the loss incurred by SBA was attributable to a compromise agreement with SBA or to a voluntary or involuntary bankruptcy.

(b)(1) *Control.* For the purposes of this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a small business concern, whether through the ownership of voting shares, by contract, position, or otherwise. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists. Control can also arise through the occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. For purposes of this section, any partner in a partnership shall be deemed to have a controlling interest.

(2) *Principal.* For purposes of this section, "principal" means any person who has at least a 20% ownership interest, whether direct or indirect, in a business concern.

(c) *Loss.* For the purposes of this section, "loss" means an amount incurred and recognized by SBA as a loss when SBA has not been reimbursed in full from the sale or other disposition of collateral which it has acquired after the debtor's default of a direct loan or after SBA has honored its guaranty with respect to a 7(a) loan, as a result of the execution of a compromise agreement, or as a result of the bankruptcy of the business.

(d) *Predecessor.* For the purposes of this section, "predecessor" means a business entity controlled by the same person(s) who controls the applicant.

Catalog of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans.

Date: July 30, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–23142 Filed 9–24–92; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Ch. IX

Natural Resource Damage Assessments Under the Oil Pollution Act of 1990

AGENCY: National Oceanic and Atmospheric Administration (NOAA), of the Department of Commerce.

ACTION: Extension of comment period.

SUMMARY: On June 1, 1992 (57 FR 23067), NOAA published an announcement of a public meeting and an extension of the comment period concerning the calculation of nonuse values as part of its promulgation of the natural resource damage assessment and restoration regulations required by the Oil Pollution Act of 1990 (OPA). Comments were to be received no later than October 1, 1992. Through this notice, NOAA extends the comment period to December 1, 1992.

DATES: Comments will be accepted through December 1, 1992.

ADDRESSES: Written comments are to be submitted to Randall Luthi, Project Manager, or Linda Burlington, Assistant Project Manager, Damage Assessment Regulations Team (DART), 6001 Executive Boulevard, room 422, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Randall Luthi, Office of General Counsel, NOAA, telephone (202) 377–1400, or Linda Burlington, Office of General Counsel, DART, 6001 Executive Boulevard, room 422, Rockville, Maryland 20852, telephone (301) 227–6332.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, provides for the prevention of, liability for, removal of and compensation for the discharge, or substantial threat of discharge, of oil into or upon the navigable waters of the United States, adjoining shorelines, or the Exclusive Economic Zone. Section 1006(e) requires the President, acting through the Under Secretary of Commerce for Oceans and Atmosphere, develop regulations establishing procedures for natural resource trustees in the assessment of damages for injury to, destruction of, loss of, or loss of use of natural resources covered by OPA. Section 1006(b) provides for the designation of Federal, State, Indian tribal and foreign natural resource trustees to determine resource injuries, assess natural resource damages (including the reasonable costs of assessing damages), present a claim, recover damages and develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship.

NOAA has published five **Federal Register** Notices, 55 FR 53478 (December 28, 1990), 56 FR 8307 (February 28, 1991), 57 FR 8964 (March 13, 1992), 57 FR 14524 (April 21, 1992), and 57 FR 23067 (June 1, 1992) requesting information and comments on approaches to developing damage assessment procedures. Throughout these various comment periods, NOAA has received numerous and often conflicting comments concerning the use of the contingent valuation methodology (CVM) in determining nonuse values of natural resources affected by a discharge of oil. To assure a thorough analysis of this issue, NOAA established a Contingent Valuation Panel to review the use of CVM to determine nonuse values. This panel conducted a public meeting in Washington, DC., on August 12, 1992, to assist in its review. In order to allow consideration of responses to that meeting, as well as other information that may be submitted, the comment period on the issue of CVM in measuring nonuse values is extended to December 1, 1992.

Dated: September 21, 1992.

Thomas A. Campbell,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 92-23297 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD41

Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion of Earned Income Tax Credits From Income and Resources

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: We are proposing rules to implement those provisions of section 11115 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, which exclude from income under the supplemental security income (SSI) program any refund of Federal income taxes due to the earned income tax credit (EITC) and any advance EITC payments from an employer. Such payments also are excluded by section 11115 of Public Law 101-508 from resources in the month following the month of receipt. In addition to implementing these statutory changes, the proposed rules also provide that SSI applicants and recipients are no longer required to file for EITC payments as a condition of SSI eligibility since such payments are excluded from income. The SSI provisions of section 11115 of Public Law 101-508 were effective January 1, 1991.

DATES: To be sure that your comments are considered, we must receive them no later than November 24, 1992.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-1762.

SUPPLEMENTARY INFORMATION: These proposed regulations implement those provisions of section 11115 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, which amended sections 1612(b) and 1613(a) of the Social Security Act (the Act). As amended, section 1612(b) excludes from income, under title XVI, any refund of Federal income taxes due to an EITC and any advance EITC payments from an employer. Such payments also are excluded from resources, by section 1613(a) of the Act, in the month following the month of receipt. In addition, under the proposed regulations, SSI applicants and recipients are no longer required to file for EITC payments as a condition of SSI eligibility since such payments are excluded from income. The SSI provisions of section 11115 of Public Law 101-508 were effective January 1, 1991.

Prior to January 1, 1991, we counted EITC payments, received either as an advance or a refund, as earned income for purposes of assessing SSI eligibility and benefit amount. Any EITC payments retained into the month following the month of receipt were considered countable resources in that month. As a condition of SSI eligibility, an individual was required to file for any EITC payments for which he or she was eligible. These policies were based on section 1612(a)(1)(C) of the Act and regulations at §§ 416.210, 416.1110, 416.1111, and 416.1201.

Section 1612(a) of the Act defines income for purposes of the SSI program and section 1612(a)(1)(C) of the Act states that earned income includes any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income tax credit) and any payment made by an employer under section 3607 of such Code (relating to advance payment of earned income tax credit). However, income under section 1612(a) of the Act is subject to various exclusions set out in section 1612(b) of the Act, which, as noted above, was amended by section 11115 of Public Law 101-508 to exclude from income an EITC payment recieved through a refund of Federal income tax or as an advance payment from an employer.

Provisions of the Proposed Regulations

Effective January 1, 1991, we exclude from income under the proposed regulations any refund of Federal income taxes due to an EITC and any advance EITC payments from an employer, which an individual receives after December 31, 1990, regardless of the tax year involved.

The proposed regulations also provide that any unspent portion of an EITC advance or refund is excluded from resources in the month following the

month of receipt. This includes any unspent portion of an EITC advance or refund received in (but not earlier than) December 1990. Any unspent funds retained into the second month following the month of receipt are subject to resource counting rules at that time.

Under the proposed regulations, individuals are no longer required to file for EITC benefits as a condition of SSI eligibility since such payments are excluded from income.

Section 11115(e) of Public Law 101–508 states that the provision applies "* * * to determinations of income or resources made for any period after December 31, 1990." We interpret this to mean that only EITC payments received after December 31, 1990 are excluded from income. EITC payments received in November or December 1990 which are used in computing payments for January or February 1991 are not excluded from income. We believe that this interpretation correctly reflects the statute since section 11115(e) of Public Law 101–508 applies with respect to "determinations of income" rather than with respect to "benefits." If section 11115(e) had been effective with respect to benefit determinations made after December 31, 1990, retrospective monthly accounting (RMA) would require the consideration of EITCs received in November and December 1990 for the benefit calculations of January and February of 1991. But determinations of income for a particular month are simply the calculations of countable income for that month which will be used in benefit calculations 2 months later. Thus, "determinations of income" after December 31, 1990, would only cover income received after that date. An EITC payment received in December 1990 may be excluded from resources in January 1991 since resources by definition include any income that is retained in the month following the month of receipt.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that these are not major rules under Executive Order 12291 since the costs are expected to be less than $100 million, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative Practice and Procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: March 27, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 21, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. Section 416.210 is amended by revising paragraph (b) to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(b) *What "other benefits" includes:* "Other benefits" includes any payments for which you can apply that are available to you on an ongoing or one-time basis of a type that includes annuities, pensions, retirement benefits, or disability benefits. For example, "other benefits" includes veterans' compensation and pensions, workers' compensation payments, Social Security insurance benefits and unemployment insurance benefits.

* * * * *

3. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

§ 416.1111 [Amended]

4. Section 416.1111 is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

5. The introductory text of paragraph (c) of § 416.1112 is republished, and paragraph (c) is amended by redesignating existing paragraphs (c)(1) through (c)(8) as paragraphs (c)(2) through (c)(9), removing the parenthesis at the end of redesignated paragraph (c)(6) and adding a new paragraph (c)(1) to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) *Other earned income we do not count.* We do not count as earned income—

(1) Any refund of Federal income taxes you receive under section 32 of the Internal Revenue Code (relating to earned income tax credit) and any payment you receive from an employer under section 3507 of the Internal Revenue Code (relating to advance payment of earned income tax credit);

* * * * *

6. Paragraph (a) of § 416.1161 is amended by adding paragraph (a)(20) to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(20) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit, as provided in § 416.1112(c).

7. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

8. Section 416.1210 is amended by removing the word "and" at the end of paragraph (h), replacing the periods at the end of paragraphs (l), (m), and (n) with semicolons, adding "and" at the end of paragraph (n) and by adding a new paragraph (o) to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(o) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit, as provided in § 416.1235.

9. Section 416.1235 is added to read as follows:

§ 416.1235 Exclusion of earned income tax credit.

In determining the resources of an individual (and spouse, if any), we exclude in the month following the month of receipt the unspent portion of any refund of Federal income taxes under section 32 of the Internal Revenue Code (relating to earned income tax credit) and the unspent portion of any payment from an employer under section 3507 of the Internal Revenue Code (relating to advance payment of earned income tax credit). Any unspent funds retained until the first moment of the second month following their receipt are subject to resource counting rules at that time.

[FR Doc. 92-23268 Filed 9-24-92; 8:45 am]
BILLING CODE 4190-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 612

RIN 1840-AB11

Drug Prevention Programs in Higher Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations governing the Drug Prevention Programs in Higher Education. The proposed regulations would permit an eligible applicant to receive more than one current grant for an Analysis project. This would be accomplished by removing a reporting requirement. The Secretary proposes this change to increase the number of applications for Analysis projects.

DATES: Comments must be received on or before October 26, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Donald Fischer, Drug Prevention Programs in Higher Education, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (ROB-3, room 3100), Washington, DC 20202-5175.

FOR FURTHER INFORMATION CONTACT: Donald Fischer, Drug Prevention Programs in Higher Education, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (ROB-3, room 3100), Washington, DC 20202-5175. Telephone: (202) 708-5771. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (for calls from metropolitan Washington, DC Telephone (202) 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

Background

Under Analysis and Dissemination competitions, the Secretary funds projects to analyze and disseminate successful project designs, policies, and results of projects funded under Institution-Wide Program competitions and Special Focus Program competitions. More specifically, Analysis projects have been funded to analyze overall results of Institution-Wide projects and cross-cutting features of Institution-Wide projects. Institution-Wide projects are comprehensive in scope. They are designed to prevent or eliminate the use of illegal drugs and alcohol by students in institutions of higher education. To that end, they provide training in drug abuse education and prevention to students, faculty, and staff. Special Focus projects address one or more specific approaches or problem areas related to drug abuse education and prevention for students enrolled in institutions of higher education.

The Secretary proposes revisions to existing regulations because of the low number of applications received under three previous competitions for Analysis awards and the desirability of increasing the number of applications submitted by knowledgeable applicants with previous experience in conducting Institution-Wide or Special Focus projects.

Under the existing § 612.2(c), an applicant that has received an award in a competition for Analysis projects is not eligible to receive a subsequent award in that competition until the applicant has submitted every report required under the prior project. The proposed regulations would remove the reporting requirement as an element of eligibility for subsequent Analysis projects.

Note, however, that under 34 CFR 75.217(d)(3) the Secretary determines the order in which applications are selected for grants by considering, among other factors, information concerning the applicant's use of funds under a previous award under this program. In applying this provision, the Secretary intends to ensure that an applicant that has an award for an existing Analysis project does not receive a new award for an identical Analysis project. However, in the case of an applicant conducting an Analysis project in which, for example, the final reports of a cohort of Institution-Wide projects are being analyzed, the Secretary's application of this provision would not prohibit the applicant from receiving a new award to analyze the final reports of a different cohort of Institution-Wide projects. The difference in cohorts would render these projects different and, therefore, allowable.

Summary of Significant Proposed Changes

Proposed Changes to Drug Prevention Programs in Higher Education

Section 612.2

The Secretary proposes to remove a requirement that prohibits an applicant from receiving another new grant for an Analysis project until all required reports for the prior project are submitted. This change would enable an applicant to receive a new grant for another Analysis project before completing the prior Analysis project. The Secretary proposes this change to encourage the submission of a greater number of applications. An applicant would still be limited to no more than one award in any competition in any fiscal year. No changes are being proposed that would affect competitions for Dissemination projects.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by these regulations would be institutions of higher education or consortia thereof. Based on analysis conducted by the Department, the Secretary has determined that these provisions would affect a minimal number of institutions.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room

3100, ROB–3 (GSA Building), 7th and D Streets, SW., Washington, DC, between the hours of 8:30 and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 612

Colleges and universities, Drug abuse, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: Drug Prevention Programs in Higher Education, 84.183)

Dated: September 18, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend part 612 of chapter VI of title 34 of the Code of Federal Regulations as follows:

PART 612—DRUG PREVENTION PROGRAMS IN HIGHER EDUCATION

1. The authority citation for part 612 continues to read as follows:

Authority: 20 U.S.C. 3211.

2. Section 612.2 is amended by revising paragraph (c) to read as follows:

§ 612.2 Who is eligible to receive an award?

* * * * *

(c) If an applicant has received an award in a competition, the applicant may not receive a new award in that competition in a subsequent year until—

(1) The Secretary determines that the applicant will satisfactorily complete the project previously supported; and

(2) Except for analysis projects as described in § 612.21(d), the applicant has submitted every report that it must submit in connection with the prior project.

* * * * *

[FR Doc. 92–23272 Filed 9–24–92; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH19–1–5387; FRL–4510–5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a revision request to the ozone portion of the Ohio State Implementation Plan (SIP) for Ludlow Flexible Packaging, Inc. (Ludlow) in Mt. Vernon, Ohio. The revision was submitted by the Ohio Environmental Protection Agency (OEPA) as an emissions trade (bubble) with monthly averaging between a total of 22 printing and paper coating lines, which are subject to the control requirements contained in the Ohio Administrative Rules (OAC) 3745–21–09(Y) and 3745–21–09(F), and a compliance date extension to June 30, 1987.

USEPA is proposing to approve this revision because the source is located in Knox County. Knox County is currently designated as an attainment area for ozone and, thus, the existing control requirements are not required by the Clean Air Act. However, approval of this SIP revision will cancel the accommodative SIP for Knox County.

DATES: Comments on this proposed revision and on the proposed USEPA approval must be received by October 26, 1992.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Richard Schleyer at (312) 353–5089, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments should be sent to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Air Enforcement Branch, Regulation Development Section (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–5089.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1983, the OEPA submitted a revision request to the ozone portion of the Ohio SIP for Ludlow. The revision consists of a bubble with monthly averaging between 10 printing lines (sources K001–K010) and 12 paper coating lines (sources K011–K022), and a compliance date extension to June 30, 1987, for all 22 lines.

The printing lines are subject to the control requirements contained in the Ohio Administration Rule (OAC) 3745–21–09(Y), and to the compliance schedule contained in OAC Rule 3745–21–04(C)(32). The paper coating lines are subject to the requirements contained in OAC Rule 3745–21–09(F), and to the compliance schedule contained in OAC Rule 3745–21–04(C)(5).

The terms and conditions for the variances and permits for these lines limit the VOC emissions to 0.27 pounds per pound of solids, as applied, as a monthly average. In addition, there is a limit of 4.8 pounds of VOC per pound of solids, as applied (based on 2.9 pounds of VOC per gallon of coating, excluding water) on a daily average for seven of the paper coating lines (K016–K022).

On January 13, 1987, the OEPA submitted additional information concerning this revision. In this submittal, the OEPA stated that several of the printing lines have been or will be permanently shut down and the remaining lines will be controlled by thermal incineration in accordance with OAC Rule 3745–21–09(Y), thereby removing the ten printing lines from the bubble. In addition, 4 of the 12 paper coating lines (K017–K019, K022) have been removed from the plant. Therefore, only 8 paper coating lines (K011–K016, K020–K021) remain under the bubble. The compliance date extension still applies to all 22 lines.

II. Current SIP

Under the existing federally approved SIP, Ludlow's printing lines are subject to the control requirements contained in the Ohio Administrative Code (OAC) Rule 3745–21–09(Y). This rule limits the volatile organic compound (VOC) content in the coatings and inks to 40 percent by volume, excluding water, or 25 percent by volume of the volatile content. Ludlow's paper coating lines are subject to the control requirements contained in OAC Rule 3745–21–09(F), which limits the VOC content to 4.8 pounds per pound of solids, as applied

(based on 2.9 pounds per gallon of coating, excluding water).[1]

III. Knox County Attainment Status

These lines are located in Knox County, Ohio. Knox County was originally designated as a nonattainment area of the NAAQS for ozone.[2] This designation was based on the assumption that nonattainment of the 0.08 ppm ozone standard (the level of the standard prior to 1979) was widespread around major urban areas. As requested by OEPA, USEPA designated Knox County as a nonattainment area although no in-county monitoring data was available. After the ozone standard was changed to 0.12 ppm, OEPA recognized that the assumption of widespread ozone nonattainment was no longer valid and initiated the redesignation of Knox County to attainment of the ozone standards. USEPA approved this request, and in 1984 redesignated Knox County as an attainment area for ozone.[3]

IV. USEPA's Evaluation of the SIP Revision Request

In order to have a revision to the ozone SIP approved as a plan that is equivalent to RACT, the revision must meet the criteria in USEPA's policies on bubbles and long-term averaging. The Ludlow revision does not meet these criteria. However, as discussed below, this revision request can be approved as a relaxation from the RACT requirements.

A compliance date extension for this facility can be approved because: (1) Ludlow is located in an area that is designated attainment for ozone; (2) a revision will not increase historical VOC emissions from the source; and (3) RACT is not required by USEPA in an area designated as attainment.

V. Compliance With the Clean Air Act Amendments of 1990

This request for a revision to the Ohio SIP for ozone has been reviewed for conformance with the provisions of the 1990 Clean Air Act Amendments (CAAA) enacted on November 15, 1990. It has been determined that this action does conform with the General Savings Clause stated in subpart 6, section 193 of the CAAA of 1990 which prohibits, in nonattainment areas, any relaxation of SIP requirements, without at least offsetting emission reductions. Ludlow is located in Knox County which is designated as an attainment area for ozone.

VI. Conclusion

Although the requested revision does not satisfy USEPA's bubble policy and monthly averaging requirements within the context of the RACT requirements, as stated above, the revision can still be approved as a relaxation from RACT requirements because Knox County is a rural attainment area for ozone. The revision will not cause an increase in actual historical VOC emissions from this source. Additionally, the Act does not require RACT level control in attainment areas.

However, approval of this revision will eliminate the accommodative ozone SIP in Knox County. This means that all new major VOC sources and major modifications in this county must comply with all the PSD monitoring requirements. This relaxation of RACT requirements is very limited in scope and will have no effect on nonattainment areas.

Note: the nearest nonattainment area, Columbus, Ohio, is 35 miles to the southwest.

Proposed Action

USEPA is proposing to approve this revision to the ozone portion of the Ohio SIP for Ludlow Flexible Packaging, Inc. This revision consists of a bubble for 8 paper coating lines with monthly averaging, and a compliance date extension for 22 paper and printing lines until June 30, 1987. This revision can be approved as a relaxation from the RACT requirements for Section 172 of the Act because the Act does not require RACT level control in areas designated as attainment of the NAAQS for ozone. Ludlow is located in Knox County, which is designated an attainment area for ozone. Also, approving this revision request will not cause an increase in actual emissions or interfere with the maintenance of the NAAQS.

However, approval of this SIP revision will cancel the accommodative SIP for Knox County.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 22144–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table Two and Three SIP revisions (54 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 revisions. The Office of Management and Budget (OMB) has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less then 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. This Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

Public comments are solicited on the requested SIP revision and on USEPA's proposal to approve. Public comments received by (30 days from date of publication) will be considered in the development of USEPA's final rulemaking action.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671(q).

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[1] In the October 31, 1980 Federal Register (45 FR 72122), and in the June 29, 1982 Federal Register (47 FR 28097), USEPA approved OAC Rule(s) 3745–21–09 (Y) and (F) as part of the SIP as meeting the RACT requirements of Part D of the Act.

[2] This designation was published in the March 13, 1978 Federal Register (43 FR 8962), and in the October 5, 1978 Federal Register (43 FR 45993).

[3] This designation was published in the June 12, 1984 Federal Register (49 FR 24124), and in the November 6, 1991 Federal Register (56 FR 56694).

Dated: September 15, 1992.
Valdas V. Adamkus,
Regional Administrator.
[FR Doc. 92-2332 Filed 9-24-92; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

RIN: 1092-AA10

Department Hearings and Appeals Procedures

AGENCY: Office of the Secretary, Interior.
ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 43 CFR 4.21(a) to change the requirement that an appeal to one of the Department's Appeals Boards from a decision will suspend the effect of the decision appealed from pending the decision on appeal, unless the Director of the Office of Hearings and Appeals or an Appeals Board exercises discretion to provide that the decision appealed from shall be in full force and effect immediately. Under the proposed rule the decision appealed from will remain effective during the pendency of an appeal unless the director or an Appeals Board determines otherwise in accordance with specified standards. There will be a revision to § 4.21(b) to ensure conformity with the revision of § 4.21(a)..

DATES: Comments must be submitted by October 26, 1992.

ADDRESSES: Comments should be sent to Nadine Markham-Iteilag, Branch of Administrative Law and General Legal Services (DGL), room 6531, Main Interior Building, 1849 C Street NW., Washington, DC 20240. Comments will be available for public review at the above address during regular business hours (8:30 a.m. to 5 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nadine Markham-Iteilag, (202) 208-5216.

SUPPLEMENTARY INFORMATION: The Department recently issued an Interim Final Rule and a Proposed Rule to amend 43 CFR 3150.2 and 43 CFR 3165.4 to allow an authorized officer's decision relating to onshore oil and gas geophysical exploration operations to remain in effect during the pendency of an appeal before the Interior Board of Land Appeals, unless the appellant demonstrates to the Board that a stay is necessary in accordance with standards generally used by courts in ruling on motions for a Temporary Restraining Order. The rule proposed here would extend this principle to all appeals before the Department's Appeals Boards, thus promoting consistency in the handling of appeals. The proposed rule promotes efficiency in that stays would no longer be automatic upon the filing of an appeal, but would be granted only after the Appeals Board is given the opportunity to make a determination whether the stay is warranted. This revision would not take away any substantive right of appeal that currently exists. It would require the appellant to be responsible for filing a petition for a stay pending appeal if the appellant desires a stay.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined under Executive Order 12291 that this revision is not a major rule. A major rule is any rule that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, innovation, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In this instance there are no expected increases in costs or prices for consumers. Costs may actually decline because of a possible decrease in the number of appeals. There would be no need for increase in Federal, State, or local agency budgets or personnel requirements to implement this rule. The gross annual effect on the United States economy would not approach $100 million. For the above reasons, and because one of the effects of the proposed rule is to restore to small entities during the pendency of the appeal the authority to act that was granted by the Department, the Department has also determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12630, Taking Implications Assessment

This proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. As it does not limit existing appeal rights, it would not infringe any private property rights. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Effects

It has been determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2(C)) is required because the proposed revision itself would have no impact on any physical attributes of the public lands or any environmental resource values. In the event public lands issues or environmental resource values are involved in the appeal, applicable NEPA procedures already will have been followed.

Civil Justice Reform

The Department has certified to the Office of Management and Budget that these proposed rules meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Drafting Information

The author of this rule is Nadine Markham-Itteilag, Attorney-Advisor, Branch of Administrative Law and General Legal Services, Division of General Law, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street NW., Washington, DC 20240.

List of Subjects in 43 CFR Part 4

Administrative Practice and Procedures, Civil Rights, Claims, Equal Access to Justice, Government contracts, Grazing lands, Indians, Lawyers, Mines, Penalties, Public lands, Surface mining.

The proposed rule is issued under authority of 43 U.S.C. 1201.

For the reasons stated in the preamble, part 4, subtitle A, of title 43 of the Code of Federal Regulations is proposed to be amended as set forth below.

1. The authority citation for part 4 continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. sec. 1201, unless otherwise noted.

2. Section 4.21 is amended by revising paragraphs (a) and (b) to read as follows:

§ 4.21 General provisions.

(a) *Effect of decision pending appeal.* Except as otherwise provided by law or other pertinent regulation:

(1) A decision will not be effective during the time in which a person adversely affected may file a notice of appeal; when the public interest requires, however, the Director or an Appeals Board may provide that a decision, or any part of a decision, shall be in full force and effect immediately;

(2) A decision will become effective on the day after the expiration of the time during which a person adversely affected may file a notice of appeal unless a petition for a stay pending appeal is filed together with a timely notice of appeal;

(3) A petition for a stay of a decision pending appeal shall show the reasons for the relief requested, addressing:

(i) The relative harm to the parties if the stay is granted or denied,

(ii) The likelihood of the appellant's success on the merits,

(iii) The likelihood of immediate and irreparable harm if the stay is not granted, and

(iv) Whether the public interest favors granting the stay;

(4) The Director or an Appeals Board shall grant or deny a petition for a stay pending appeal, either in whole or in part, on the basis of the factors listed in paragraph (a)(3) of this section, within 45 calendar days of the expiration of the time for filing a notice of appeal;

(5) A decision, or that portion of a decision, for which a stay is not granted will become effective immediately after the Director or an Appeals Board denies or partially denies the petition for a stay, or fails to act on the petition within the time specified in paragraph (a)(4) of this section.

(b) *Exhaustion of administrative remedies.* No decision which at the time of its rendition is subject to appeal to the Director or an Appeals Board shall be considered final so as to be agency action subject to judicial review under 5 U.S.C. 704, unless a petition for a stay of decision has been timely filed and the decision being appealed has been made effective pending a decision by the Director or an Appeals Board in the manner provided in paragraph (a) of this section.

* * * * *

John E. Schrote,

Assistant Secretary, Policy, Management and Budget.

[FR Doc. 92-23225 Filed 9-24-92; 8:45 am]

BILLING CODE 4310-RK-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-198, RM-8056]

Radio Broadcasting Services; Larose, Louisiana

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Electronics Unlimited, Inc., seeking the substitution of Channel 262C1 for Channel 262A at Larose, Louisiana, and the modification of Station KMZM-FM's construction permit to specify operation on the higher powered channel. Channel 262C1 can be allotted to Larose in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.6 kilometers (14.7 miles) south to accommodate Electronics' desired site. The coordinates for Channel 262C1 are North Latitude 29-22-00 and West Longitude 90-26-50. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 262C1 at Larose or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before November 11, 1992, and reply comments on or before November 27, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Timothy K. Brady, Esq., P.O. Box 986, Brentwood, Tennessee 37027-0986 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-198, adopted August 11, 1992, and released September 21, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., Suite 640, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-23271 Filed 9-24-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-196, RM-8041]

Radio Broadcasting Services; Tallassee and Tuskegee, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document request comments on a petition for rule making filed on behalf of Tiger Broadcasting Company, Inc., permittee of Station WACQ-FM, Channel 260A, Tuskegee, Alabama, seeking the reallotment of Channel 260A to Tallassee, Alabama, and modification of its permit accordingly. Coordinates for this proposal are 32-26-30 and 85-47-45.

Petitioner's modification proposal complies with the provisions of § 1.420(i) of the Commission's rules. Therefore, we will not accept competing expressions of interest in the use of Channel 260A at Tallassee, Alabama, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before November 12, 1992, and reply comments on or before November 27, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: M. Scott Johnson and Catherine M. Withers, Esqs.,

Gardner, Carton & Douglas, 1301 K Street, NW., suite 900, East Tower, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–196, adopted August 10, 1992, and released September 21, 1992. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1990 M St., NW., suite 640, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–23348 Filed 9–24–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

FRA Docket No. RSGC–5; Notice No. 3

[RIN 2130–AA70]

Timely Response to Grade Crossing Signal System Malfunctions Notice of Extension of Comment Period

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking; extension of comment period.

SUMMARY: FRA is issuing notice that the period for public comment in this proceeding is being extended to December 1, 1992, due to significant questions raised at the hearing and to permit further opportunity to submit data and comments regarding this issue, FRA is extending the comment.

DATES: Written comments must be received no later than December 1, 1992. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination during regular business hours in Room 8201 of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce F. George, Chief, Highway-Rail Crossing and Trespasser Programs Division, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0533), or Mark Tessler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION: On June 29, 1992, FRA published a notice of proposed rulemaking regarding timely response to grade crossing signal system malfunctions. 57 FR 28819. A public hearing was held on September 15, 1992. Due to significant questions raised at the hearing and to permit further opportunity to submit data and comments regarding this issue, FRA is extending the comment period until December 1, 1992.

Issued in Washington, DC on September 22, 1992.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 92–23317 Filed 9–24–92; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 26 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on the FMP amendment should be submitted on or before November 20, 1992.

ADDRESSES: Comments on the FMP amendment should be submitted to Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 or delivered to the Federal Building Annex, Suite 6, 9109 Mendenhall Mall Road, Juneau, AK.

Copies of the amendment and the environmental assessment/regulatory impact review prepared for the amendment are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907–271–2809).

FOR FURTHER INFORMATION CONTACT: Susan Salveson, Fishery Management Biologist, Alaska Region, NMFS at 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve the plan or amendment.

Amendment 26 would provide the authority to continue to implement time/area closures around Kodiak Island to vessels using trawl gear other than pelagic trawl gear. Current regulations implementing these closures are scheduled to expire at the end of 1992. The continued imposition of these closures beyond 1992 under Amendment 26 is necessary to protect the habitat of depressed stocks of red king crab and Tanner crab.

Proposed regulations for continued closures based on this amendment are scheduled to be published within 15 days of this notice.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-23270 Filed 9-21-92; 4:11 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 187
Friday, September 25, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Agricultural Science And Technology Review Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), as amended, the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: Agricultural Science and Technology Review Board (hereafter referred to as the Review Board).

Date: September 24–25, 1992.

Time: 8:30 a.m.–4:30 p.m. Sept. 24; 8:30 a.m.–12 Noon, Sept. 25.

Place: Quality Hotel on Capitol Hill, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person named below.

Purpose: The purposes of the meeting are to: Review the missions and responsibilities of the Review Board; Determine activity priorities; Agree on approaches to address responsibilities; Establish agenda for next meeting; Elect Chair and other officers.

Contact Person for Agenda and More Information: Dr. Mark R. Bailey, Executive Secretary, Joint Council on Food and Agricultural Sciences, room 3M12, Annex Building, U.S. Department of Agriculture, Washington, DC 20250–2200; Telephone (202) 401–4662.

Done in Washington, D.C., this 21 day of September 1992.

John Patrick Jordan,

Administrator.

[FR Doc. 92–23276 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Northern Region; Fee Schedule for Communication Uses

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Regional Forester, Northern Region, has modified the fee schedule for communication uses authorized on National Forest System lands located in the Montana, North Dakota, and parts of Idaho and South Dakota.

ADDRESSES: Copies of the schedule may be obtained by writing to the Regional Forester, Northern Region, USDA—Forest Service, Federal Building, P.O. Box 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION CONTACT: Dave O'Brien (406) 329–3601 or Jim Hathaway (406) 329–3110, Lands and Minerals Staff.

SUPPLEMENTARY INFORMATION: On August 23, 1989, the Regional Forester for the Northern Region published a notice adopting a fee schedule for communications uses (54 FR 35023—35027). Congress delayed implementation of the fee schedule and directed the Forest Service to review and report to the Appropriations Committees on the ability of fee schedules to reflect values associated with local market conditions. The report was completed and sent to the Appropriations Committee on March 21, 1991. The restriction on fee schedule implementation was removed in 1992.

The fee schedule modifications are based on the findings of the report to Congress and additional Forest Service administrative review. Most of the modifications either reduce the fees adopted in 1989, or require appraisals or other sound business management principles be used to establish fees. The modified fee schedule reflects the fair market value of the authorized use as required by the Federal Land Policy and Management Act of 1976.

Dated: September 16, 1992.

John M. Hughes,

Deputy Regional Forester.

[FR Doc. 92–23337 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

Facility No., name, and location of stockyard	Date of posting
AR–168—I-40 Livestock Auction, Inc., Ozark, Arkansas.	Apr. 8, 1992.
MS–165—T. Smith Livestock, Hattiesburg, Mississippi.	June 22, 1992.
NC–163—Mount Olive Livestock Mkt., Inc. Snow Hill, North Carolina.	July 15, 1992.
UT–117—Dean H. Parker, Logan, Utah.	June 18, 1992.

Done at Washington, DC this 18th day of September, 1992

Harold W. Davis, Director,

Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc. 92–23331 Filed 9–24–92; 8:45 am]

BILLING CODE 3410–KD–M

Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
AR–126—Magnolia Livestock Auction, Magnolia, Arkansas.	Sept. 11, 1959.
MS–118—Mississippi Livestock Producers.	Jan. 7, 1959.

This notice is in the nature of a change relieving a restriction and, thus, may be effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and is effective upon publication in the **Federal Register**

Done at Washington, DC this 18th day of September, 1992

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 92-23329 Filed 9-24-92; 8:45 am]

BILLING CODE 3210-KD-M

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

FL-134—The New Interstate Livestock Auction, Seffner, Florida

PA-156—Mel's Stable, New Holland, Pennsylvania

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, room 3408-South Building, U.S. Department of Agriculture, Washington, DC 20250 by October 3, 1992.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 18th day of September, 1992.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 92-23330 Filed 9-24-92; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 600]

Termination of Foreign-Trade Subzone 70-O; Trenton, MI

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on December 22, 1989, the Foreign-Trade Zones Board issued a grant of authority to the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), authorizing the establishment of Foreign-Trade Subzone 70-O at Chrysler Corporation's auto components plant in Trenton, Michigan (Board Order 456, 54 FR 53667, 12/29/89);

Whereas, GDFTZ advised the Board on April 15, 1991 (FTZ Docket 18-91), that zone procedures were no longer needed at the facility and requested voluntary termination of Subzone 70-O;

Whereas, the request has been reviewed by the FTZ Staff and the Customs Service, and approval has been recommended;

Now, Therefore, the Foreign-Trade Zones Board terminates the subzone status of Subzone No. 70-O effective this date.

Signed at Washington, DC, this 18th day of September 1992.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-23375 Filed 9-24-92; 8:45 am]

BILLING CODE 3570-DS-M

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 92-00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to The United States Apple and Pear Marketing Board, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1991) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

U.S. origin fresh, frozen and processed apples, pears, sweet cherries, and broccoli.

2. Services

Inspection, quality control, marketing and promotional services.

3. Technology Rights

Proprietary rights of all kinds of technology associated with Products or Services, including, but not limited to: patents, trademarks, service marks, trade names, copyrights (including neighboring rights), trade secrets, know-how, semiconductor mask works, utility models (including petty patents), plant breeders rights, industrial designs, and *sui generis* forms of biotechnology protection and computer software protection.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

All export trade-related facilitation services, including, but not limited to: Consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development and application; assistance and administration of government export assistance programs, such as the Export Enhancement and Market Promotion programs.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands) and Canada.

Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products into the Export Markets, the USAPMB may, on behalf of and with the advice and assistance of its Members:

(1) Design and execute foreign marketing strategies for its Export Markets;

(2) Prepare joint bids, establish export prices for Members' Products and Services and establish terms of sale in the Export Markets;

(3) Allocate export sales, international buyers and/or export markets among Members on the basis of each Member's independent commitment of Products, and/or its individual export marketing plan in relation to USAPMB's corporate plan;

(4) Grant sales and distribution rights for the Products, whether or not exclusive, into designated Export Markets to foreign agents or importers ("exclusive" meaning that the USAPMB and Members may agree not to sell the Products into the designated Export Markets through any other foreign distributor, and that the foreign distributor may agree to represent only USAPMB in the Export Markets and none of its competitors);

(5) Design, develop and market generic corporate labels;

(6) Engage in joint promotional activities directly targeted at developing the Export Markets, such as: Arranging trade shows and marketing trips; providing advertising services; providing brochures, industry newsletters and other forms of product, service and industry information; conducting international market and product research; procuring international marketing, advertising and promotional services; and sharing the cost of these joint promotional activities among the Members;

(7) Conduct product and packaging research and development exclusively for the export of the Products, such as meeting foreign regulatory requirements and foreign buyer specifications and identifying and designing for foreign buyer and consumer preferences;

(8) Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in the Export Markets, such as packaging requirements, establishing and operating fumigation facilities and providing specialized packing operations and other quality control procedures to be followed by its Members in the export of Products into the Export Markets;

(9) Advise and cooperate with agencies of the U.S. Government in establishing procedures regulating the export of Members' Products, Services and/or Technology Rights into the Export Markets;

(10) Negotiate and enter into purchase agreements with buyers in the Export Markets regarding the export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;

(11) Broker or take title to the products;

(12) Purchase Products from non-Member producers whenever necessary to fulfill specific sales obligations;

(13) Solicit non-Member producers to become Members;

(14) Communicate and process export orders;

(15) Assist each Member in maintaining the quality standards necessary to be successful in the Export Markets;

(16) Provide Export Trade Facilitation Services with respect to Products, Services and Technology Rights;

(17) Provide, procure, negotiate, contract and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storage and warehousing, stevedoring, wharfage and handling, insurance, forwarder services, trade documentation and services, customs clearance, financial instruments and foreign exchange;

(18) Negotiate freight rate contracts with individual carriers and carrier conferences either directly or indirectly through shippers associations and/or freight forwarders;

(19) Arrange financing through bank holding companies, governmental financial assistance programs and other arrangements;

(20) Bill and collect from foreign buyers and provide accounting, tax, legal and consulting assistance and services;

(21) Enter into exclusive agreements with Non-Members to provide Export Trade Services and Trade Facilitation Services;

(22) Design, implement and administer Foreign Sales Corporations in accordance with the Internal Revenue Code;

(23) Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of the Products in the Export Markets;

(24) Apply for and utilize applicable export assistance and incentive programs which are available within the governmental and private sectors, such as the USDA Export Enhancement and Market Promotion programs;

(25) Negotiate and enter into agreements with governments and foreign persons to develop countertrade arrangements;

(26) Refuse to deal with or provide quotations to other Export Intermediaries for sales of the Members' Products into the Export Markets; and

(27) Exchange information with and among the Members as necessary to carry out the Export Trade Facilitation Services and Export Trade Activities and Methods of Operation, including:

(a) Information about sales and marketing efforts and strategies in the Export Markets, including pricing; projected demand in the Export Markets for Products; customary terms of sale, prices and availability of Products independently committed by Members for sales in the Export Markets; prices and sales of Products in the Export Markets; and specifications by buyers and consumers in the Export Markets;

(b) Information about the price, quality, quantity, source and delivery dates of Products available from the Members for export;

(c) Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by the USAPMB;

(d) Information about joint bidding, selling arrangements for the Export Markets and the allocations of export sales resulting from such arrangements among the Members, including information regarding the allocation methods used and each member's percentage of the total committed volume of all Members;

(e) Information about expenses specific to exporting to and within the Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

(f) Information about U.S. and foreign legislation and regulations, including Federal marketing order programs that may affect sales to the Export Markets; and

(g) Information about the USAPMB's or its Members' export operations, including sales and distribution networks established by the USAPMB or its Members in the Export Markets,

and prior export sales by Members, including export price information.

Each Member will independently determine the quantity of the Products that it will make available for direct sale into the Export Markets. Members will be responsible for advising the USAPMB in a timely manner regarding the Products to be made available for export, and the quantities and time periods in which they will be made available.

Members will grant the USAPMB the right of first refusal for all Products they plan to sell directly into the Export Markets. Members can obtain permission from the USAPMB to sell their Products through other Export Intermediaries if: (a) the Product does not meet the quality or packaging standards and requirements of the USAPMB; (b) the terms of sale are not acceptable to the Member; (c) the export price is not acceptable to the Member; (d) due to the perishability of the product, the Member must sell the Product immediately and USAPMB does not have a viable sales opportunity during the time necessary to ship; or (e) the proposed export sales are the outgrowth of business relationships existing before the date of this Certificate.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Appalachian Apple, Inc. (and the following member firms of this consortium: Fred L. Glaize Partnership; Moore and Dorsey, Co. Inc.; Ridgetop Orchards; Hearty Virginia, Inc.; Ikenberry Orchard; Buck Hill Orchard; Frederickson Orchard; Mount Clifton Orchard); Borton & Sons, Inc.; Douglas Fruit Company, Inc.; Eakin Fruit Company, Inc; Gold Digger Apples, Inc.; Green Valley Farms; Inland Fruit & Produce Company, Inc.; Jack Frost Company, Inc./Marley Orchard Corp.; Northwestern Fruit & Produce Company, Inc.; Price Cold Storage & Packing Company, Inc.; Rice Fruit Company, Inc.; Roche Fruit Company, Inc.; and Washington Apple and Pear Marketing Board.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: September 21, 1992.

George Muller,

Director, Office of Export, Trading Company Affairs.

[FR Doc. 92-23380 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-DR-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651); 80 Stat. 897; 15 CFR part 301, we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-123. *Applicant:* The Graduate Hospital, 415 S. 19th Street, Philadelphia, PA 19146. *Instrument:* Muscle Research System, Model OPT1S. *Manufacturer:* Guth Scientific Instruments, Germany. *Intended Use:* The instrument will be used in experiments which are performed to determine the mechanism by which agonist activation increases myofilament calcium sensitivity in a G-protein dependent manner of vascular smooth muscle, small mesenteric arteries taken from rabbits. *Application Received by Commissioner of Customs:* September 1, 1992.

Docket Number: 92-129. *Applicant:* North Carolina State University, Campus Box 7212, Raleigh, NC 27695. *Instrument:* 2 Biological Nitrifying Filters for Aquaculture Use, Model 800. *Manufacturer:* Waterline, Canada. *Intended Use:* The instrument will be used to control ammonia nitrogen concentration in fish tanks. *Application Received by Commissioner of Customs:* August 26, 1992.

Docket Number: 92-130. *Applicant:* University of Oklahoma Health Sciences Center, Department of Medicine, BSEB 306, 941 S.L. Young Boulevard, Oklahoma City, OK 73104. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* Sciex, Canada. *Intended Use:* The instrument will be used in conjunction with a high pressure liquid chromatograph to perform liquid chromatography/mass spectrometry at extremely low limits during the following research:

(1) Determination of the molecular weights of proteins and glycoproteins,

(2) Determination of the sites of glycosylation in glycoproteins,

(3) Structure determination of the carbohydrate portion of glycoproteins,

(4) Determination of the sites of phosphorylation in phosphoproteins,

(5) Molecular weight determination for oligonucleotides,

(6) Molecular weight determination for peptides, and

(7) Peptide sequencing.

Application Received by Commissioner of Customs: August 26, 1992.

Docket Number: 92-131. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Mass Spectrometer, Model 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used for the study of calcium carbonate samples which will be analyzed for isotopic variations in order to determine past changes in the earth's climate. The objectives pursued in the research are to investigate and determine:

(1) The range of variability in the ocean-atmosphere-cryosphere systems;

(2) The causes of climate change on decadal to millennial time scales;

(3) The relationship between climate change and the carbon cycle system;

(4) The relationship between surface climate and deep water circulation.

In addition, the instrument will be used for educational purposes in the courses 12.721 (Special Problems in Marine Geology and Geophysics) and 12.WTH (Thesis Research) which are both related to pre-generals or pre-defense thesis research. *Application Received by Commissioner of Customs:* August 27, 1992.

Docket Number: 92-132. *Applicant:* Rutgers University, Department of Physics, P.O. Box 849, Piscataway, NJ 08855-0849. *Instrument:* Ion Source, Model ICS-3. *Manufacturer:* High Voltage Engineering, The Netherlands. *Intended Use:* The instrument will be used in conjunction with an existing ion accelerator which will be used for studies of the geometric structure of the following materials: Copper, nickel, gold, platinum and silicon materials. An experiment will be conducted to measure the energy and angle of the backscattered ions. *Application Received by Commissioner of Customs:* August 27, 1992.

Docket Number: 92-133. *Applicant:* Federal Highway Administration, Payments Division, 6300 Georgetown Pike, McLean, VA 22101-2296. *Instrument:* Asphalt Concrete Slab Wheel Track Tester. *Manufacturer:* Helmut Wind, Germany. *Intended Use:* The instrument will be used to test asphalt paving mixtures which are primarily composed of asphalt, aggregate, and possible certain modifiers such as polymers. If it is found

that the device can model in-service rutting and moisture damage, then the machine will be used in various research projects related to the study of the combined effects of rutting and stripping. *Application Received by Commissioner of Customs:* August 27, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-23378 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-110. *Applicant:* University of California, Los Angeles, Department of Psychiatry & Behavioral Sciences, 760 Westwood Plaza, Los Angeles, CA 90024-1759. *Instrument:* Mass Spectrometer, Model API III-R. *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* The instrument will be used for peptide sequencing and molecular mass determination of peptides, glycopeptides, proteins, glycoproteins, oligonucleotides, oligosaccharides and related metabolites, drugs, and drug metabolites in tissues and biological fluids. *Application Received by Commissioner of Customs:* July 17, 1992.

Docket Number: 92-111. *Applicant:* Colorado State University, Department of Physics, Fort Collins, CO 80523. *Instrument:* Upgrade Package for Mass Spectrometer. *Manufacturer:* John Sandercock Ltd., Switzerland. *Intended Use:* This is an upgrade package for a mass spectrometer which is being used to investigate linear and nonlinear magnetic excitations in thin film materials. Specific work will focus on the fundamental properties and behavior of high frequency magnetic solitons in thin film structures, new device possibilities that may utilize such excitations, and the physics of chaos as it relates to nonlinear spin wave excitations. *Application Received by Commissioner of Customs:* July 17, 1992.

Docket Number: 92-112. *Applicant:* Pennsylvania State University, Materials Research Laboratory, University Park, PA 16802. *Instrument:* Grating Tuned CO_2 Laser, Model PL6. *Manufacturer:* Edinburgh Instruments, United Kingdom. *Intended Use:* The instrument will be used as a powerful heat source for a Laser Heated Pedestal Growth Station for the growth of single crystal fibers of various compositions. The single growth technique is used to study materials properties (phase transition characteristics, melting behavior, crystal growth phenomena, effects of chemical modifications, etc.). *Application Received by Commissioner of Customs:* July 22, 1992.

Docket Number: 92-113. *Applicant:* New York University, 1158 Brown Building, Washington Square, NY 10003. *Instrument:* (3) Glass Bead Sterilizers, Model STERI 350. *Manufacturer:* Simon Keller AG, Switzerland. *Intended Use:* The instrument will be used in the investigation of developmental root morphogenesis in *Arabadopsis thalia* as well as nitrogen metabolism in Arabadopsis and Tobacco. *Application Received by Commissioner of Customs:* July 22, 1992.

Docket Number: 92-114. *Applicant:* Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Center, Cannon Research Center, 1000 Blythe Boulevard, Charlotte, NC 28232-2861. *Instrument:* Electron Microscope, Model CM-10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used by faculty to study several areas of biomedical interest, including:

(1) Cellular and tumor immunology;

(2) Cartilage, connective tissue, and bone formation in tissue culture models;

(3) Bone formation and degradation in mice with x-linked hypophosphatemia;

(4) Cardiac muscle morphology;

(5) Vascular intimal changes following various types of angioplasties, and

(6) Vascular morphology related to atherosclerosis.

Application Received by Commissioner of Customs: July 22, 1992.

Docket Number: 92-115. *Applicant:* U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 28 Tarzwell Drive, Narragansett, RI 02992.

Instrument: Data Acquisition and Logging System for Underwater Towed Body and Continuous Plankton Recorder System.

Manufacturer: Chelsea Instruments Ltd., United Kingdom.

Intended Use: The instrument will be used for studies of physical, chemical and biological states of the marine environment off the northeast coast of the United States. The experiments are standardized monitoring over broad ocean areas using research and opportunistic vessels. The objectives of the investigations are to develop indices of the state of health of the ocean ecosystem for predictive and management purposes. *Application Received by Commissioner of Customs:* July 22, 1992.

Docket Number: 92-116. *Applicant:* Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. *Instrument:* High Intensity Xenon Flashlamp System, Model XF-10.

Manufacturer: Dr. Gert Rapp, Germany. *Intended Use:* The instrument will be used for studies of Paramecium ciliary movements as well as its ciliary dynein activities, which is used as a model system for studying human trachael ciliary activity and sperm motility. The objectives of the studies are to (1) quantify dynein mediated microtubule movements with transiently applied minimum amount of ATP and (ii) measure changes in speed or direction of microtubule movements in response to changes in ATP, cAMP and calcium concentrations. *Application Received by Commissioner of Customs:* July 22, 1992.

Docket Number: 92-117. *Applicant:* University of California, Davis, Davis, CA 95616. *Instrument:* Electrophoresis for Solid Particles in Suspension, Model MKII. *Manufacturer:* Rank Brothers, United Kingdom. *Intended Use:* The instrument will be used to examine the oxidation reduction behavior of aqueous chromium in the presence of manganese dioxide and low molecular weight organic acids such as oxalate. Experiments will be conducted to seek to examine the charge characteristics of the manganese dioxide in the presence of chromium and to investigate the mechanisms of Cr oxidation and reduction by manganese dioxide at various pH and organic acid levels. *Application Received by Commissioner of Customs:* July 23, 1992.

Docket Number: 92-118. *Applicant:* North Dakota State University, Biochemistry Department, Box 5456, Administration Building, Old Main, room 17, Fargo, ND 58105. *Instrument:* Spectrofluorimeter, Model DX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used to investigate the molecular basis of enzyme catalyzed

reactions. The enzymes involved in these studies are fatty acyl CoA dehydrogenase, soybean lipoxygenase, glycogen phosphorylase, phosphorylase kinase, aldolase, phosphofructokinase and fructose biophosphatase. The instrument will be used to employ steady state and transient kinetic techniques to delineate the microscopic pathways of these enzymes. *Application Received by Commissioner of Customs:* July 28, 1992.

Docket Number: 92–119. *Applicant:* Howard Hughes Medical Institute, Box 9812, New Haven, CT 06536–0812. *Instrument:* Electron Microscope, Model CM10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for analysis of biological specimens ranging from unicellular organisms to human tissues. The goal of the research will be to elucidate biological mechanisms at the cellular and subcellular levels. In addition, the instrument will be used to train pre and postdoctoral scientists in electron microscopy, in special courses in immunocytochemistry and electron microscopy in the Department of Cell Biology and in the course "Research Strategies in Molecular Genetics and Cell Biology." *Application Received by Commission of Customs:* July 28, 1992.

Docket Number: 92–120. *Applicant:* University of Virginia, Department of Pediatrics, Old Med School Hospital Drive, Charlottesville, VA 22908. *Instrument:* Automatic Karyotyping System, Model Cytoscan 3. *Manufacturer:* Applied Imaging International, United Kingdom. *Intended Use:* The instrument will be used for studies of chromosomes from cancer cells in order to identify recurring genetic changes characterizing human cancer cells. *Application Received by Commissioner of Customs:* July 28, 1992.

Docket Number: 92–121. *Applicant:* The Alexandria Hospital, 4300 Seminary Road, Alexandria, VA 22304. *Instrument:* Automatic Rapid Karyotyping System with Table, Model Cytoscan RK1. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended Use:* The instrument will be used to carry out automated computerized karyotyping of genetic specimens (amniocentesis, peripheral bloods, bone marrows and products of conception). It also will serve as a means by which documentation and storage of final result is achieved. *Application Received by Commissioner of Customs:* August 3, 1992.

Docket Number: 92–122. *Applicant:* County of Sacramento, 8521 Laguna Station Road, Elk Grove, CA 95758. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* The instrument will be used to identify and quantitate the organic and bio-organic chemicals present in wastewater and riverwater; the exact identities are not all known. A thorough study of the various wastewaters and riverwaters will be made with the intent to fully define the matrices involved as a means of establishing background data representing "normal" conditions; the current levels of industrial pollution should also result from this work. *Application Received by Commissioner of Customs:* August 5, 1992.

Docket Number: 92–124. *Applicant:* Louisiana State University Medical Center, Department of Anatomy, 1901 Perdido Street, New Orleans, LA 70112–1393. *Instrument:* Electron Microscope, Model JEM–1210EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for biomedical research to study the ultrastructure of tissue in the following proposed experiments:

(1) Localization of antibody labeling of various neurotransmitters and other neurochemicals within brain tissue,

(2) Localization of pathologies in cardiovascular tissue,

(3) Identification of pathology in retinal tissue after various retinal diseases, particularly retinitis pigmentosa and

(4) Characterization of defects in ultrastructure of tissue after various experimental manipulations.

In addition, the instrument will be used for training of graduate and medical students, postdoctoral fellows, medical residents and medical fellows. *Application Received by Commissioner of Customs:* August 5, 1992.

Docket Number: 92–125. *Applicant:* Lamont Doherty Geological, Observatory of Columbia University, Rt. 9W, Palisades, NY 10964. *Instrument:* ICP Mass Spectrometer, Model PQ2. *Manufacturer:* Vacuum General, United Kingdom. *Intended Use:* The instrument will be used in studies of geological rocks and minerals, solutions of sea water, riverwater, groundwater, atmospheric precipitation, sediments and their pore fluids, oceanic particulate materials, and other materials occurring on the surface and within the interior of the Earth. *Application Received by Commissioner of Customs:* August 5, 1992.

Docket Number: 92–126. *Applicant:* Texas A&M Research Foundation, Box 3758, University Drive and Wellborn Road, College Station, TX 77843. *Instrument:* Water Current Meter, Model SD–12. *Manufacturer:* Sensordata, Norway. *Intended Use:* The instrument will be used to measure three dimensional water velocity vectors in long-crested seas, short-crested seas and currents in the OTRC multi-directional wave/current model basin. *Application Received by Commissioner of Customs:* August 6, 1992.

Docket Number: 92–127. *Applicant:* Naval Hospital Oakland, Histopathology Laboratory, 8750 Mountain Boulevard, Building 500, Oakland, CA 94627–5000. *Instrument:* Electron Microscope, Model JEM–100CX. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used to carry out high resolution investigations of kidney diseases (study of changes in glomerulous membranes) and various tumors especially the differential diagnosis of the various poorly differentiated anaplastic cancers. The instrument will also be used in the training of residents in the training program. *Application Received by Commissioner of Customs:* August 6, 1992.

Docket Number: 92–128. *Applicant:* University of California, Santa Barbara, Department of Geological Sciences, Santa Barbara, CA 93106. *Instrument:* Noble Mass Spectrometer, Model MAP 216. *Manufacturer:* Mass Analyzer Products, Ltd., United Kingdom. *Intended Use:* The instrument will be used to measure the isotopic composition of Ar in a variety of minerals and rocks in order to determine their geologic ages. *Application Received by Commissioner of Customs:* August 6, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–23379 Filed 9–24–92; 8:45 am]

BILLING CODE 3510–DS–M

University of Arizona; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington DC.

Docket Number: 92–082. *Applicant:* University of Arizona, Tucson, AZ 85721. *Instrument:* Mass Spectrometer, Model Sector 54. *Manufacturer:* VG Isotech, Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 30471, July 9, 1992.

Comments: None received. *Decision:* Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) internal precisions to 0.001% for neodymium and strontium; 0.002% for lead; and 0.05% for osmium, (2) seven Faraday collectors and (3) a Daly detector. These capabilities are pertinent to the applicant's intended purpose and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-23377 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-DS-M

Virginia Polytechnic Institute and State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-007R. *Applicant:* Virginia Polytechnic Institute and State University, Blacksburg, VA 24061. *Instrument:* Plasma Etcher, Model CSE-2120L. *Manufacturer:* ULVAC, Japan. *Intended Use:* See notice at 57 FR 6000, February 19, 1992.

Comments: None received. *Decision:* Denied. *Reasons:* The application was provisionally denied (DWOP) in accord with 15 CFR 301.5(e). The applicant requested duty-free entry on grounds that the foreign article was a gift and that no domestic manufacturer of similar equipment was likely to offer such a donation. The DWOP informed the applicant that neither cost nor insufficient funds to purchase can justify duty wavier, which must be based on the technical inadequacy of domestic instruments for specific research needs pursuant to 15 CFR 301.5(d)(1)(i). Consultants at the National Institute of Standards and Technology provided us a list of twelve domestic suppliers of comparable equipment potentially capable of fulfilling the applicant's requirements. The DWOP asked the applicant to describe why products of these manufacturers would be unacceptable for the intended uses.

The applicant's resubmission stated that:

> You are correct in that we could have purchased the equipment from a U.S. company. The cost for new equipment would be approximately $250,000; if the equipment were used it would have cost approximately $150,000. As it is we were able to obtain the equipment for the cost of shipping only, approximately $5,200.

Pursuant to 15 CFR 301.5(e)(7):

> The resubmission should address the specific deficiencies cited in the DWOP. The Director may draw appropriate inferences from the failure of an applicant to provide the information requested in the DWOP.

The resubmission merely amplified the applicant's original rationale and failed to provide any evidence, as requested, of deficiencies of products from the list of domestic vendors supplied by our consultants. The statement that "* * * we could have purchased the equipment from a U.S. company" without elaboration implies that such equipment would be satisfactory, albeit costly. We deny the application because the applicant failed to address the specific deficiencies cited in the DWOP in accordance with 15 CFR 301.5(e)(7).

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-23376 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Niantic Dockominium Association from an Objection by the State of Connecticut

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On July 9, 1992, the Under Secretary for Oceans and Atmosphere, United States Department of Commerce, dismissed the consistency appeal of Niantic Dockominium Association (Appellant) filed on January 10, 1991, with the Secretary of Commerce (Secretary) pursuant to section 307(c)(3)(A) of Coastal Zone Management Act of 1972 (CZMA), as amended 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations at 15 CFR part 930, subpart H. The Appellant applied to the U.S. Army Corps of Engineers (Corps) for a permit to conduct a dredge and fill operation, involving 2,000 cubic yards of fill material, to relocate a section of the presently-authorized Federal channel in the Niantic River, in the Town of East Lyme, County of New London, Connecticut. The Appellant proposed to relocate the channel in order to maintain existing marine structures, parts of which purportedly encroach upon the Federal channel. In conjunction with the Federal permit application, the Appellant submitted to the Corps for review by the State of Connecticut Department of Environmental Protection (State), the State's coastal management agency, under section 307(c)(3)(A) of the CZMA, a certification that the proposed activity is consistent with the State's Federally-approved Coastal Management Program (CMP).

On August 21, 1990, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed dredge and fill operation and channel realignment were not in accordance with the State's CMP policy that requires that structures in coastal water be designed, constructed and maintained so as to minimize adverse impacts on coastal resources.

The Federal regulations implementing the CZMA provide, in relevant part, that the Secretary may dismiss consistency appeals for "good cause," including "Secretarial receipt of a detailed comment from the Federal agency stating that the agency has disapproved the Federal license, permit or assistance applications." 15 CFR 930.138(c).

On May 6, 1992, the Corps issued a letter to the Appellant denying the Appellant's permit application. In that denial, the Corps District Engineer provided a detailed description of the location and extent of the proposed dredge and fill operation, and a summary of the basis for the permit denial, including a determination, in accordance with 33 CFR 320-330, that the project is contrary to the public interest.

In light of the Federal permitting agency's decision to deny the Appellant's permit application, the Under Secretary dismissed the appeal for good cause pursuant to 15 CFR 930.128(c). The Appellant may not file another appeal from the State's objection to this permit application.

FOR ADDITIONAL INFORMATION CONTACT: Brett R. Joseph, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, N.W., suite 603, Washington, DC 20235, (202) 606-4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: September 18, 1992.

Thomas A. Campbell,

General Counsel.

[FR Doc. 92-23278 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Brazil

September 21, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: September 22, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 225 is being increased by application of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 21971, published on May 26, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 21, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 19, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1992 and extends through March 31, 1993.

Effective on September 22, 1992, you are directed to amend further the May 19, 1992 directive to increase the limit for Category 225 to 8,892,488 square meters [1], as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Federative Republic of Brazil.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-23290 Filed 9-24-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a service previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 26, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List:

Charcoal, Activated, Technical
6810-00-726-7944
Nonprofit Agency: Pittsburgh Blind Association, Pittsburgh, Pennsylvania

Flag, Signal
8345-00-935-3203
Nonprofit Agency: Northeastern Association of the Blind, Albany, New York

Deletion

It is proposed to delete the following service from the Procurement List:

Janitorial/Custodial
Charles E. Boston USARC

[1] The limit has not been adjusted to account for any imports exported after March 31, 1992.

Houma, Louisiana

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-23355 Filed 9-24-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 26, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action. If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from a nonprofit agency employing individuals who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will result in authorizing a small entity to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List:

Tube, Mailing and Filing
8110-00-244-7435
8110-00-271-1508
8110-00-271-1509
8110-00-291-0344
8110-00-291-0345
8110-00-291-0346
8110-00-291-0347
8110-00-291-0348
8110-00-725-1471
8110-00-298-2046
8110-00-969-5406

Nonprofit agency: Pinellas Association for Retarded Children, St. Petersburg, Florida.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-23356 Filed 9-24-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List an arm and leg splint to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 26, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 24, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (57 FR 32976) of the proposed addition of these splints to the Procurement List. During the development phase of this proposed addition to the Procurement List, the current contractor noted that it is a minority firm and indicated that the addition would cause it to lose sales and jobs, with negative effects on profitability and employee morale. The contractor did not provide details.

In light of the current contractor's total sales volume, the Committee does not consider the loss of sales caused by adding these splints to the Procurement List to constitute severe adverse impact. Moreover, the Committee took into account the impact of previous additions on the current contractor and noted that despite such additions, the annual sales volume had grown significantly. The Committee believes that the possible loss of jobs for minority employees, which has not been substantiated, is outweighed by the creation of employment for blind persons among whom unemployment is extremely high.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Splint, Arm, Pneumatic
6515-00-935-6592
Splint, Leg, Pneumatic
6515-00-935-6593

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-23357 Filed 9-24-92; 8:45 am]

BILLING CODE 6820-01-M

Procurement List; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a barracks trunk locker

to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 26, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 17, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (57 FR 13715) of the proposed addition of this locker to the Procurement List. After the close of the comment period, comments were received from the current contractor and the Economic Development Department of the city in which the contractor is located. Both comments indicated that the Government sales of the trunk locker proposed for addition to the Procurement List constitute a large part of the contractor's total sales and that loss of these sales could cause the contractor to close, resulting in unemployment for 100 economically disadvantaged people.

In response to these comments and information about declining government demand for the trunk locker, the Committee has decided to reduce the portion of the Government requirement for the trunk to be added to the Procurement List to 10%. This action will enable the Committee to fulfill its mission of creating employment for people with severe disabilities without the potential of causing a severe adverse impact on the current contractor.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Trunk Locker, Barracks
8460-00-243-3234
(10% of the Government requirement)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-23358 Filed 9-24-92; 8:45 am]
BILLING CODE 6820-33-M

Procurement List; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a loop clamp to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 26, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 31, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (57 FR 33943) of the proposed addition of this clamp to the Procurement List. While no comments were received during the public comment period, comments were received from the current contractor for this item in response to a Committee request for sales information related to another item under development for addition to the Procurement List. The President of the firm stated that in recent years sales had declined dramatically and that several employees had been laid off. He indicated that every order was needed and that laid off employees could not be rehired, or new employees hired, if the item were added as proposed. He pointed out that the firm was a small business and the vast majority of its sales were to the Federal Government.

The loop clamp being added to the Procurement List represents a small percentage of the contractor's total sales. Consequently, the Committee has concluded that the loss of this item will not have a severe adverse impact on the contractor, even considering the current state of the economy. The Committee believes that any potential loss of employment by the contractor's workers or its inability to rehire workers previously laid off is outweighed by the employment that this action will generate for persons with severe disabilities.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List: Clamp, Loop, 5340-01-277-6184.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-23359 Filed 9-24-92; 8:45 am]
BILLING CODE 6820-33-M

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 26, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 12, 26, July 31, August 7 and 14, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 25023, 28658, 33943, 34912 and 36640) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities or services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities or services.

3. The action will result in authorizing small entities to furnish the commodities or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities or services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Parts Kit, Spare

1375–01–217–8725

Tool Box, Portable

5140–00–226–9018

Clamp, Loop

5340–01–260–8990
5340–01–252–4644
5340–01–278–4043
5340–01–276–8539
5340–01–276–9179
5340–01–118–6697
5340–01–118–6696
5340–01–118–6677
5340–01–998–3164

Specimen Kit, Urine

6530–00–075–6636

Services

Commissary Shelf Stocking, Naval Air Station, Corpus Christi, Texas

Commissary Shelf Stocking and Custodial, Selfridge Air National Guard Base, Mt. Clemens, Michigan

Janitorial/Custodial, Naval Station, Mobile, Alabama

Janitorial/Custodial, Paul G. Rogers Federal Building and Courthouse, 701 Clematis Street, West Palm Beach, Florida

Janitorial/Custodial, Naval Support Activity Commissary, New Orleans, Louisiana

Janitorial/Custodial, Air National Guard Base, Buildings 175 & 197, Dormitories 5236, 5238 & 817, Otis, Massachusetts

Janitorial/Custodial, Federal Building, 1709 Jackson Street, Omaha, Nebraska

Janitorial/Custodial, U.S. Army Buffalo Reservation, Buffalo, New York

Janitorial/Custodial, Ysleta U.S. Border Station, El Paso, Texas

Microfilming of EEG Records, Veterans Administration Medical Center, Buffalo, New York.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–23360 Filed 9–24–92; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meetings: 5–6 November, 1992.

Time: 0900–1600 Hours.

Place: Pentagon.

Agenda: The Army Science Board's Command, Control, Communications and Intelligence (C3I) Issue Group will meet to do a draft report on Artificial Intelligence (AI) and Information Mission Area (IMA). This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–23335 Filed 9–24–92; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meetings: 26–27 October 1992.

Time: 0900–1600 Hours.

Place: Pentagon.

Agenda: The Army Science Board's Command, Control, Communications and Intelligence (C3I) Issue Group will meet to review the state of Artificial Intelligence (AI) technology. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–23336 Filed 9–24–92; 8:45 am]

BILLING CODE 3710–08–M

U.S. Army Reserve Command Independent Commission; BC 3710–01; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the CANCELLATION of the following Committee meeting:

Name of Committee: U.S. Army Reserve Command Independent Commission.

Date of Meeting: September 28 & 29, 1992.

Place: 1225 Jefferson Davis Highway, suite 1410, Arlington, Virginia 22202.

Time: 8 a.m.–5 p.m.

Purpose: The Commission was established to assess the progress and effectiveness of

the United States Army Reserve Command since its establishment.

Previous Notice: The announcement of this meeting was published in the Federal Register on July 30, 1992, page 33720.

Ellis L. Pennington,

LTC, GS, U.S. Army Reserve Command, Independent Commission.

[FR Doc. 92-23339 Filed 9-24-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meetings: 13-14 October 1992.

Time: 0830-1700 Hours.

Place: Vicksburg, MS and vicinity.

Agenda: The Army Science Board's Infrastructure and Environment Panel will hold its fourth meeting on "Groundwater Modeling in the Army's Environmental Restoration Programs." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-23334 Filed 9-24-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meetings: 5-6 October 1992.

Time: 0900-1600 Hours.

Place: Pentagon.

Agenda: The Army Science Board's Command, Control, Communications and Intelligence (C3I) Issue Group will meet to review Artificial Intelligence (AI) and Information Mission Area (IMA). This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-23333 Filed 9-23-92; 8:47 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing sponsored by the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES AND TIMES: Friday, October 16, 1992, beginning at 9 a.m. and ending at 5 p.m.

ADDRESSES: Rayburn House Office Building, room 2175, Independence Avenue between South Capitol and First Street, SW., Washington DC 20515.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, room 4600, ROB-3, 7th & D Streets, SW., Washington, DC 20202-7582 (202) 708-7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Public Law 100-50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, and conducting a study of institutional lending in the Stafford Student Loan Program. The Congress has also directed the Advisory Committee to assist with a series of special assessments and produce an in-depth student loan simplification.

The Advisory Committee will meet in Washington, DC on October 16, 1992, from 9 a.m. to 5 p.m.

The proposed agenda includes discussion sessions on (a) the paperwork burden experienced by financial aid officers within the current structure of the loan program; (b) simplification and standardization of forms, procedures and other aspects of guaranty operations; (c) simplification of the bank repayment process; and (4) efficient utilization of loan programs. Those who cannot attend the hearing are invited to submit written testimony which will be presented to the Advisory Committee members and will become a part of the Committee's official records.

The intent of the Washington hearing is to involve as witnesses many of the education, financial aid and student loan associations. In addition, members of congressional staffs are being invited to share their views on the study and the loan program.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, room 4600, 7th and D Streets, SW., Washington, DC from the hours of 9 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: September 21, 1992.

Brian K. Fitzgerald,

Staff Director Advisory Committee on Student Financial Assistance.

[FR Doc. 92-23277 Filed 9-24-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92-836-000, et al.]

PacifiCorp, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. ER92-836-000]

September 17, 1992.

Take notice that PacifiCorp on September 11, 1992, tendered for filing in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Letter Agreement between PacifiCorp and Western Area Power Administration (Western) dated September 10, 1992 (Agreement).

The Agreement provides for establishing the interconnection between PacifiCorp's and Western's electrical systems at Flaming Gorge as an interim Point of Interconnection under PacifiCorp Rate Schedule FERC No. 262.

PacifiCorp requests an effective date of September 14, 1992, the date Western schedules at the Flaming Gorge Point of Interconnection are to commence.

Copies of this filing were supplied to Western, the Public Utility Commission

of Oregon and the Utah Public Service Commission.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Electric Light and Power Co.

[Docket No. ES92-57-000]

September 16, 1992.

Take notice that on September 10, 1992, Iowa Electric Light and Power Company filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue not more than $125 million of short-term notes with a final maturity date no later than December 31, 1996.

Comment date: October 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Inter-Power/AhlCon Partners, L.P.

[Docket No. QF87-632-002]

September 16, 1992.

On September 10, 1992, Inter-Power of Pennsylvania, Inc., on behalf of Inter-Power/AhlCon Partners, L.P. (Inter-Power/AhlCon) of Three Penn Center West, suite 401, Pittsburgh, Pennsylvania 15276, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near the village of Clover, in Cambria County, Pennsylvania. The Commission previously certified the facility as a qualifying small power production facility, Inter-Power of Pennsylvania, Inc., 41 FERC ¶ 62,175 (1987), and recertified the facility as a qualifying small power production facility, Inter-Power/AhlCon Partners, L.P., 59 FERC ¶ 62,059 (1992), to reflect a change in the ownership, increase in the maximum net capacity of the facility, and inclusion of a transmission line that was to connect the facility with Pennsylvania Electric Company. The instant request for recertification is due to a sale-leaseback arrangement of the facility, a change in ownership structure of the lessee, Inter-Power/AhlCon, and in increase in the maximum net capacity of the facility to 102 MW.

Comment date: October 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Indianapolis Power & Light Co.

[Docket No. ES92-56-000]

September 16, 1992.

Take notice that on September 10, 1992, Indianapolis Power & Light Company filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue not more than $150 million of unsecured short-term promissory notes on or before December 31, 1994, with a final maturity date no later than December 31, 1994.

Comment date: October 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Old Dominion Electric Cooperative

[Docket No. ES92-58-000]

September 16, 1992.

Take notice that on September 11, 1992, Old Dominion Electric Cooperative filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue not more than $60.5 million of Tax-Exempt Debt Securities. Also, Old Dominion Electric Cooperative Requests exemption from the Commission's competitive bidding regulations.

Comment date: October 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Co.

[Docket No. ER88-525-002]

September 16, 1992.

Take notice that on August 14, 1992, Commonwealth Edison Company tendered for filing its compliance filing in the above referenced docket.

Comment date: September 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corp.

[Docket No. ER92-413-000]

September 16, 1992.

Take notice that on August 28, 1992, Niagara Mohawk Power Corporation (Niagara) tendered for filing a supplemental filing in the above-referenced docket.

Comment date: September 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. The Detroit Edison Co.

[Docket No. ER92-728-000]

September 17, 1992.

Take notice that The Detroit Edison Company (Detroit Edison) on September 1, 1992, tendered for filing (1) First Revised Sheet No. 10b to Detroit Edison's FERC Electric Tariff, Volume No. 1 which provides for the sale of experimental seasonal peaking capacity and energy, and (2) an executed service agreement between Detroit Edison and Wolverine Power Supply Cooperative, Inc. for the sale of such capacity and energy.

Detroit Edison requests an effective date of October 1, 1992 for both the service proposed under the rate schedule and the service agreement executed by Wolverine Power Supply Cooperative.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Power Co.

[Docket No. ER92-816-000]

September 17, 1992.

Take notice that on September 1, 1992, Consumers Power Company (Consumers) tendered for filing a Service Agreement between Consumers and Wolverine Power Supply Cooperative, Inc. (Wolverine). Under the Service Agreement, Wolverine would receive transmission service under Consumers' FERC Electric Tariff, Original Volume No. 4. Copies of the filing were served on Wolverine and on the Michigan Public Service Commission.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Gas and Electric Co.

[Docket Nos. EL89-34-005, EL89-34-003, ER86-107-001, ER86-120-001, E-7777-013 (Phase I), Project Nos. 137, No. 233-033, No. 1988-015, and No. 2735-027]

September 17, 1992.

Take notice that on August 26, 1992, pursuant to the Commission's May 12, 1992 letter, Pacific Gas and Electric Company (PG&E) advised the Commission of the Northern California Power Agency's (NCPA) election to discontinue the applicability of the Annual Non-Diablo Partial Requirements Demand Rate Adjustment Factor as defined in section IV.3(b) of appendix A of the Interconnection Agreement between PG&E and NCPA.

Copies of this filing have been served upon NCPA, the California Public Utilities Commission and the parties to the service list in the above referenced dockets.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Philadelphia Electric Co.

[Docket No. ER92-833-000]

September 17, 1992.

Take notice that on September 10, 1992, Philadelphia Electric Company (PE) tendered for filing under Section 205 of the Federal Power Act and part 35 of the Regulations issued thereunder, an Agreement between PE and Delmarva Power & Light Company (Delmarva) dated September 3, 1992.

PE states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to Delmarva. The Agreement supersedes an agreement between PE and Delmarva dated March 12, 1991, which is on file with the Commission as PE's Rate Schedule FERC No. 56. In order to optimize the economic advantage to both PE and Delmarva, PE requests that the Commission waive its customary notice period and permit the agreement to become effective on September 14, 1992.

PE states that a copy of this filing has been sent to Delmarva and will be furnished to the Pennsylvania Public Utility Commission, the Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Power and Light Co.

[Docket No. ER92-837-000]

September 17, 1992.

Take notice that on September 11, 1992, Wisconsin Power and Light Company tendered for filing with the Federal Energy Regulatory Commission two Letter Agreements between Wisconsin Power and Light Company (WP&L) and Interstate Power. Under the General Purpose Energy Agreement WP&L will make non-firm energy available to Interstate Power Company with terms and quantity to be arranged upon mutual agreement. Under the Negotiated Capacity Agreement WP&L will make capacity and energy available to Interstate Power Company with negotiated degrees of firmness, variable capacity charges, and variable time duration.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. United States Department of Energy—Boulder Canyon Project

[Docket No. EF91-5091-000]

September 17, 1992.

Take notice that on September 15, 1992, the Western Area Power Administration of the United States Department of Energy (Western) filed a document entitled "Settlement Agreement." Western describes the document as a fully executed settlement agreement and states that it has been served on all parties on the service list in this proceeding.

Comment date: October 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Co. (Minnesota Co.)

[Docket No. ER92-79-000]

September 17, 1992.

Take notice that on September 9, 1992, Northern States Power Company (Minnesota) [NSP-MN or NSP] tendered for filing an amendment supporting acceptance for filing of certain Joint Transmission Network Agreements dated January 31, 1991, between NSP-MN, Cooperative Power Association [CPA], and United Power Association [UPA].

The Joint Transmission Network [JTN] Agreements essentially provide that the Parties utilize, and share the costs of, a designed 345 kV Joint Transmission Network (JTN) to deliver electric power and energy to their respective transmission systems. The Parties intend to either own facilities, or compensate other Parties providing facilities so that each Party's investment contribution in the JTN is commensurate with its use of the JTN in accordance with the JTN Agreements. The Parties desire to specify compensatory obligations among them in order to achieve parity between each Party's investment contribution and use of the JTN as of the effective date of the JTN Agreement. The amendment contains certain explanatory materials describing the purpose, intent and implementation of the JTN Agreements.

NSP requests that the JTN Agreements be accepted for filing effective January 1, 1985, and requests waiver of Commission's notice requirements in order for the Agreement to be accepted for filing on that date. NSP requests that the Agreement be accepted as a supplement to Rate Schedule FERC No. 439, the original rate schedule for service to CPA and UPA.

Comment date: September 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Montaup Electric Co.

[Docket No. ER92-818-000]

September 17, 1992.

Take notice that on September 1, 1992, Montaup Electric Company (Montaup) filed a Notice of Cancellation of an agreement between itself and Massachusetts Wholesale Electric Company (MMWEC).

Under this Agreement Montaup agreed to sell to MMWEC capacity and energy from its Canal Electric Unit No. 2 for the period May 1, 1992 through October 31, 1992. On May 8, 1992, Montaup tendered for filing this unit sale agreement for the sales to commence May 1, 1992. By order of August 3, 1992, the Commission accepted the MMWEC filing and ordered refunds of amounts in excess of variable costs collected for service prior to July 7, 1992. On August 21, 1992, Montaup filed an Application for Rehearing requesting the Commission to revise its order to eliminate the refunds. No action has been taken on the Application for Rehearing.

The Agreement between Montaup and MMWEC expires by its own terms on October 31, 1992. Montaup hereby requests that the Amendment with MMWEC be terminated on that date.

Comment date: September 30,1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23282 Filed 9-24-92; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

September 21, 1992.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 11050–001.

c. *Date Filed:* September 7, 1992.

d. *Applicant:* North Side Canal Company.

e. *Name of Project:* U–3.

f. *Location:* On the U Canal in Jerome County, Idaho, T. 7 S., R. 16 E., Sections 23, 24, and 25 (about 10 miles downstream from the head of the canal). The canal system originates from the Snake River near Milner Dam in the vicinity of Hazelton, Idaho.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kip Runyan, Ida-West Energy Company, P.O. Box 7867, Boise, Idaho 83703, (208) 336–4254.

i. *FERC Contact:* Héctor M. Pérez at (202) 219–2843.

j. *Comment Date:* November 6, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure within the canal embankment; (2) a 150-foot-long, 10-foot-high by 10-foot-wide reinforced concrete box-shaped penstock; (3) an 8-foot-high by 8-foot-wide box-shaped bypass line; (4) a powerhouse with a 3.2-megawatt generating unit; and (5) other appurtenances. The project would have an estimated average annual generation of 11,000 megawatthours.

l. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23343 Filed 9–24–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP92–699–000, et al.]

Panhandle Eastern Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commissions:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP92–699–000]

September 15, 1992.

Take notice that on September 11, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642 Houston, Texas 77251–1642, filed in Docket No. CP92–699–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new delivery point for service to United Cities Gas Company (United Cities), an existing jurisdictional sales customer, under Panhandle's blanket certificate issued in Docket No. CP83–83–000, all as more fully described in the request which is on file with the Commission and open to public inspection.

Panhandle requests authorization to install the proposed delivery point, to be known as Hannibal #2 and consisting of two 4-inch hot taps and appurtenant facilities on Panhandle's 10 and 12-inch Quincy laterals in Marion County, Missouri. It is stated that the delivery point is required to accommodate the delivery of gas to be sold by Panhandle to United Cities under Panhandle's Rate Schedule G–2 and pursuant to a sales agreement between Panhandle and United Cities dated September 9, 1992.

It is asserted that the delivery point would be used for the delivery of up to 11,500 Mcf on a peak day and that this volume would be added to the sales agreement between Panhandle and United Cities. It is further asserted that the volumes proposed for delivery at Hannibal #2 would not exceed United Cities' existing entitlement from Panhandle and that the proposal would have no impact on Panhandle's peak day or annual deliveries. The construction cost of the facilities is estimated at $209,000, for which Panhandle would be reimbursed by United Cities.

Comment date: October 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Alabama-Tennessee Natural Gas Co.

[Docket No. CP92–694–000]

September 15, 1992.

Take notice that on September 8, 1992, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP92–694–000 a request pursuant to sections 7(b), 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to abandon firm sales service of natural gas by Alabama-Tennessee to Amoco Chemical Corporation (Amoco) in Decatur, Alabama under its blanket certificate issued in Docket No. CP85–359–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Alabama-Tennessee states that it is seeking authorization to abandon direct sales service in the amount of 4,600 Mcf of natural gas per day presently dedicated on a firm basis to Amoco. Alabama-Tennessee states that the Commission authorized this service to Amoco under a certificate of public convenience and necessity which it issued on April 10, 1970 in Docket No. CP70–191. Alabama-Tennessee does not propose the abandonment of any facilities in connection with this request.

Alabama-Tennessee states that it has not made firm natural gas deliveries to Amoco under the subject certificate since October 31, 1988, when the underlying contract for the provision of direct sales service by Alabama-Tennessee to Amoco terminated. Alabama-Tennessee states that Amoco does not wish to continue, extend or renew this direct sales service, and that Amoco consents to this request for abandonment.

Comment date: October 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Co.

[Docket No. CP92–700–000]

September 15, 1992.

Take notice that on September 11, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP92–700–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to upgrade and operate its existing delivery meter and appurtenant facilities at the Cabot Corporation (Cabot) Plant M&R Station No. 9176 located in Douglas County, Illinois to increase the delivery pressure to Cabot under its blanket certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle states that it requests authority to increase the delivery pressure at Station 9176 from 25 psig to 350 psig. Panhandle further states that the total volumes to be delivered to Cabot will not exceed Cabot's existing contract demand. Panhandle estimates that the cost of construction would be approximately $30,000 which would be reimbursed to Panhandle by Cabot.

Comment date: October 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Co.

[Docket No. CP92-701-000]

September 15, 1992.

Take notice that on September 11, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-701-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 175.212) for authorization to establish two new alternate interim delivery points to its existing firm transportation contract with Boston Gas Company (Boston Gas) under Tennessee's blanket certificate issued in Docket No. CP82-413-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that, pursuant to Boston Gas' request, it has agreed to utilize two existing delivery points on an alternate interim basis only, near Reading and Beverly-Salem, Massachusetts, under the provisions of the NET service agreement between Tennessee and Boston Gas. Tennessee further states that the two new points are needed for use on an alternate interim basis because the previously authorized firm delivery point (authorized at 53 FERC 61,194) that was to be constructed at Danvers, Massachusetts, has not yet been constructed. Tennessee explains that such delivery point is the subject of expressed adamant opposition by local residents and that Tennessee and Boston Gas are currently discussing other possible locations for the Danvers delivery point.

Comment date: October 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co.

[Docket No. CP92-707-000]

September 17, 1992.

Take notice that on September 15, 1992, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP92-707-000 a request pursuant to § § 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to increase deliveries of natural gas to Peoples Natural Gas Company, A Division of UtiliCorp United Inc. (Peoples), at an existing delivery point and to construct and operate related facilities under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to deliver volumes amounting to 212 Mcf per day on a peak day basis, and 3,780 Mcf annually, at the East Big Marine Lake, Minnesota, delivery point. Northern states that the proposed volumes are within the currently authorized level of firm entitlements for Peoples. Northern explains that the deliveries of gas would be served from the total firm entitlements currently assigned to the community of Pine City. Northern states that Peoples has not requested that any firm entitlements be assigned to this delivery point. Northern advises that in addition to jurisdictional gas sales to Peoples under Northern's Rate Schedule CD-1, gas would be transported under Rate Schedule FT-1 for delivery to Peoples at the proposed delivery point. It is stated that the end use of the gas would be for residential, commercial, and industrial purposes. Northern estimates that the cost of upgrading the facilities would be $24,678, which would be reimbursed by Peoples.

Comment date: November 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP92-696-000]

September 17, 1992.

Take notice that on September 11, 1992, Arkla Energy Resources, (AER), a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP92-696-000 a request pursuant to § § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate facilities in Oklahoma under its blanket certificate issued in Docket Nos. CP82-384-000 and CP92-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

AER states that it proposes to construct and operate one new delivery tap to EnMark Gas Corporation in Kay County, Oklahoma.

Comment date: November 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Co.

[Docket No. CP92-702-000]

September 17, 1992.

Take notice that on September 14, 1992, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP92-702-000, a request pursuant to § 157.205 of the Commission's Regulations Under the Natural Gas Act (18 CFR 157.205) for authorization to upgrade an existing delivery point to accommodate increased natural gas deliveries to Peoples Natural Gas Company (Peoples), under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to upgrade the Schuyler TBS #2 delivery point located in Section 28, T17N, R3E, Colfax County, Nebraska to accommodate increased deliveries to Peoples under Northern's Rate Schedule IT-1. It is stated that Peoples has requested service at this delivery point starting with the 1992-93 heating season, due to the increased requirements within Peoples existing service area, primarily for Excel Packing Corporation, a beef processing operation.

Northern states that the estimated volume of natural gas to be delivered to Peoples at the Schuyler TBS #2 is expected to result in an increase in Northern's peak day deliveries of 960 Mcf per day and 132,000 Mcf per year on an annual basis. Further, it is estimated that the cost to upgrade the delivery point is $70,000.

Northern advises that the total volumes to be delivered to Peoples after the request do not exceed the total volumes authorized prior to the request. Northern further states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers.

Comment date: November 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. K N Energy, Inc.

[Docket No. CP92-706-000]

September 17, 1992.

Take notice that on September 15, 1992, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP92-706-000, a request pursuant to § 157.205 of the Commission's Regulations Under the

Natural Gas Act (18 CFR 157.205) for authorization to add three new wholesale delivery points to The City of Colorado Springs, Colorado (The City) and to add two new wholesale delivery points to Public Service Company of Colorado (PSCo), both existing customers, under KN's blanket certificate, issued in Docket Nos. CP83–140–000 and CP84–140–001, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N states that The City and PSCo have requested new delivery points from K N at an existing point of interconnection between the facilities of Natural Gas Pipe Line Company and CIG in Beaver County, Oklahoma (Forgan Delivery Point) and at a point of interconnection to be established between the facilities of Northern Gas Company and CIG in Carbon County, Wyoming (Sinclair Delivery Point). In addition, K N states that The City has requested a new delivery point from K N at an existing point of interconnection between the facilities of Panhandle Eastern Pipeline Company and CIG in Adams County, Colorado (Wattenberg Delivery Point). CIG would transport the gas from the delivery points to the City and PSCo, it is stated.

K N states that there will be no change in the total volumes presently authorized for delivery to The City and to PSCo as a result of the addition of these delivery points. K N further states that there will be no adverse impact on K N's peak day and annual deliveries and that K N has sufficient capacity to accomplish the deliveries without detriment or disadvantage to K N's other customers.

Comment date: November 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23281 Filed 9–24–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ93–1–20–000, TM93–2–20–000, TQ92–5–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

September 21, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on September 16, 1992, tendered for filing proposed changed in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

I. Proposed to be effective September 17, 1992

Primary Tariff Sheets
- 2 Sub 13 Rev Sheet No. 21
- 2 Sub 13 Rev Sheet No. 22
- 2 Sub 9 Rev Sheet No. 25
- 2 Sub 13 Rev Sheet No. 26
- 2 Sub 13 Rev Sheet No. 27
- 2 Sub 13 Rev Sheet No. 28
- 2 Sub 13 Rev Sheet No. 29

Alternate Tariff Sheets
- Alt 2 Sub 13 Rev Sheet No. 21
- Alt 2 Sub 13 Rev Sheet No. 22
- Alt 2 Sub 9 Rev Sheet No. 25
- Alt 2 Sub 13 Rev Sheet No. 26
- Alt 2 Sub 13 Rev Sheet No. 27
- Alt 2 Sub 13 Rev Sheet No. 28
- Alt 2 Sub 13 Rev Sheet No. 29

Algonquin states that the revised tariff sheets are being filed as part of Algonquin's Out of Cycle Quarterly Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment pursuant to sections 17 and 39 of the General Terms and Conditions of Algonquin's FERC Gas Tariff. The sales demand rate reflects an increase of $0.089 per MMBtu from the demand rate contained in Algonquin's last Quarterly PGA filing, which was made in Docket No. TQ92–4–20 on July 31, 1992 and approved by FERC in a Letter Order dated August 28, 1992.

Algonquin further states that the primary tariff sheets listed above are based on FERC approval of both National's compliance rates filed in Docket No. RP86–136 and Transco's motion rates filed in Docket No. RP92–137. The alternate sheets are based solely upon Transco's motion rates.

Algonquin is also filing as part of its FERC Gas Tariff the following sheets:

II. Proposed to be effective October 1, 1992

Primary Tariff Sheets
- 2 Sub 14 Rev Sheet No. 21
- 2 Sub 14 Rev Sheet No. 22
- 2 Sub 10 Rev Sheet No. 25
- 2 Sub 14 Rev Sheet No. 26
- 2 Sub 14 Rev Sheet No. 27
- 2 Sub 14 Rev Sheet No. 28
- 14 Rev Sheet No. 29

Secondary Tariff Sheets
- Alt 2 Sub 14 Rev Sheet No. 21
- Alt 2 Sub 14 Rev Sheet No. 22
- Alt 2 Sub 10 Rev Sheet No. 25
- Alt 2 Sub 14 Rev Sheet No. 26
- Alt 2 Sub 14 Rev Sheet No. 27
- Alt 2 Sub 14 Rev Sheet No. 28
- Alt 14 Rev Sheet No. 29

Algonquin states that National, on August 31, 1992, filed its quarterly PGA in Docket No. TQ92–8–16 to be effective October 1, 1992. In this filing National filed both primary and alternate sheets. Algonquin herein also files primary and alternate tariff sheets to track both Algonquin's primary and alternate sheets proposed to be effective September 17, 1992 and National's primary and alternate tariff sheets proposed to be effective October 1, 1992. Algonquin also states that the effect of the tariff sheets is to increase the demand rate by $0.014 per MMBtu.

III. Proposed to be effective October 1, 1992

Algonquin also stated that it is filing the above tariff sheet to reflect the reduction in Texas Eastern's ACA rate. Pursuant to section 4 of Rate Schedule ATAP, Algonquin is filing this tariff sheet to track the changes made by Texas Eastern to track the changes in the underlying rate. The effect is to reduce the commodity rates for ATAP transportation by $0.0001.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before September 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23342 Filed 9–24–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91-161-000, RP91-160-000, et al.]

Columbia Gas Transmission Corp., Columbia Gulf Transmission Co, Informal Settlement Conference

September 21, 1992.

Take notice that an informal conference will be convened in this proceeding on Tuesday, September 29, 1992 and Wednesday, September 30, 1992, at 10 a.m. for the purpose of exploring the possible settlement of the above-referenced dockets. The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE. Washington DC, 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Lorna J. Hadlock at (202) 208-0737 or David R. Cain at (202) 208-0917.

Lois D. Cashell,

Secretary

[FR Doc. 92-23344 Filed 9-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER91-570-003]

Southern Company Services, Inc; Filing

September 21, 1992.

Take notice that on November 6, 1991, August 5, 1992, and August 13, 1992 Southern Company Services, Inc. tendered for filing supplemental information in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 1, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23341 Filed 9-24-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-78-NG]

Louis Dreyfus Energy Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas to Canada and Mexico and Vacating Existing Authorization

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Louis Dreyfus Energy Corp. a blanket authorization to import up to 182.5 Bcf of natural gas from Canada, to export back to Canada up to 182.5 Bcf of imported Canadian gas, and to export up to 182.5 Bcf of domestically produced natural gas to Mexico and Canada, over a two-year term beginning on the date of first delivery. The order also vacates the authorization granted to L.D. Energy Corp. by DOE/FE Opinion and Order No. 409.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 21, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-23372 Filed 9-24-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4511-7]

Lead Redesignation to Nonattainment; Hillsborough County, FL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: Sections 107 (d)(3) and (d)(5) of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (Pub. L. 101-549, Nov. 15, 1990) (the Act), authorizes EPA to require States to designate areas (or portions of areas) in the state as nonattainment, attainment, or unclassifiable for the National Ambient Air Quality Standard (NAAQS) for lead. On June 24, 1992, EPA notified the Governor of Florida that the lead designation for a portion of Hillsborough County, Florida, should be revised from unclassifiable to nonattainment, based upon a monitored violation of the NAAQS for lead.

EPA is giving notice to the public of this action as required by section 107(d)(3)(A) of the Act.

ADDRESSES: Copies of EPA's letter to the Governor are available for public inspection and copying during normal business hours at the following agencies:

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Air Resources Management Division, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT: Richard Schutt of the EPA Region IV Air Programs Branch at 404-347-2864 and at the above address.

SUPPLEMENTARY INFORMATION: On April 22, 1991, (56 FR 16274) EPA announced that it had notified the governors of affected states that they should proceed to designate as nonattainment areas those areas that had recorded violations of the National Ambient Air Quality Standard (NAAQS) for lead. EPA published a list of areas that the governors had been requested to designate as unclassifiable if they contained stationary lead sources which EPA believed to be capable of violating the lead NAAQS, but for which existing air quality data was insufficient to designate as attainment or nonattainment. Included in that list was Hillsborough County, Florida. However, a lead value of 2.27 micrograms per cubic meter was reported for the fourth quarter of 1991 by a monitor located in Hillsborough County. This value violates the current lead NAAQS of 1.5 micrograms per cubic meter as a quarterly average.

Lead nonattainment areas are generally defined by the county perimeter for the county in which the

ambient lead monitors recorded the violation of the lead NAAQS and/or in which a lead source is located. As an alternative, EPA has indicated that states may seek to define boundaries using certain techniques to justify the chosen boundary (56 FR 56694 and 56707, November 6, 1991).

EPA had approved, prior to the identification of the lead NAAQS violation, the following unclassifiable lead area (56 FR 56829, November 6, 1991), consisting of a portion of Hillsborough County:

An area encompassed within a radius of (5) kilometers centered at UTM coordinates: 364.0 East 3093.5 North, Zone 17 (in city of Tampa).

This area surrounds the secondary lead smelting operation of Gulf Coast Recycling, a battery recycling facility. EPA believes it is reasonable to rely on the current Hillsborough County unclassifiable boundary as the nonattainment area boundary since the State had previously demonstrated that this is the area impacted by Gulf Coast Recycling. However, any ultimate determination will be made after considering any comments from the State of Florida, and any comments submitted by the public. Under section 107(d)(3)(B) of the Act, the Governor must submit the lead designation for this area that he deems appropriate no later than 120 days after receipt of EPA's notification.

The EPA must then promulgate the redesignation proposal submitted by the Governor, making such modifications as it deems necessary, no later than 60 days after the aforementioned 120 day time period has expired. Whenever EPA intends to make a modification, the agency will notify the state and provide such state with an opportunity to demonstrate why any proposed modification is inappropriate. EPA shall give such notification no later than 60 days before the date the redesignation is promulgated, including any modification thereto. If the Governor fails to submit the list in whole or in part, EPA shall promulgate the redesignation that is deemed appropriate for the area (or portion thereof) not redesignated by the state.

Any State containing an area designated as nonattainment for lead must submit a State Implementation Plan (SIP) to EPA within 18 months of the nonattainment designation meeting the applicable requirements of Part D, Title I of the Act (Section 191(a), 42 U.S.C. 7514(a)). The SIP must provide for attainment of the lead standard as expeditiously as practicable, but no later than five (5) years from the date of the nonattainment designation (Section 192(a), 42 U.S.C. § 7514a(a)).

Authority: 42 U.S.C. 7401–7671(q).

Dated: September 10, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–23324 Filed 9–24–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4511–6]

Review of National Secondary Ambient Air Quality Standards for Sulfur Oxides; Proposed Consent Decree

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; opportunity for public comment.

SUMMARY: Notice is hereby given of a proposed consent decree in litigation concerning review of the national secondary ambient air quality standards for sulfur oxides under the Clean Air Act ("Act"). As discussed more fully below, the Environmental Protection Agency ("EPA") is providing an opportunity for public comment on the proposed decree under section 113(g) of the Act.

DATES: Written comments on the proposed decree must be received by October 26, 1992.

ADDRESSES: Written comments should be sent, preferably in triplicate, to Gerald K. Gleason, Air and Radiation Division (LE–132A), Office of General Counsel, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Copies of the proposed decree are available from Betty S. Mobley at the same address (telephone 202–260–7606).

FOR FURTHER INFORMATION CONTACT: John H. Haines (Program Officer), telephone 919–541–5533 or Gerald K. Gleason (Senior Attorney), telephone 202–260–7623.

SUPPLEMENTARY INFORMATION: In *Environmental Defense Fund* v. *Reilly*, No. 85 Civ. 9507 (S.D.N.Y.), the Environmental Defense Fund and other plaintiffs sued EPA under section 304 of the Act to compel review and revision of the national ambient air quality standards ("NAAQS") for sulfur oxides, codified at 40 CFR 50.4 and 50.5, under section 109(d) of the Act. EPA and the plaintiffs have moved to lodge with the U.S. District Court for the Southern District of New York a proposed consent decree intended as an alternative to further litigation in response to a decision of the U.S. Court of Appeals for the Second Circuit. *Environmental Defense Fund* v. *Thomas*, 870 F.2d 892 (2d Cir. 1989). The proposed decree would require EPA to take final action by April 15, 1993, on the secondary standards portion of a pending rulemaking (53 FR 14926, April 26, 1988) for review of the NAAQS for sulfur oxides.

Final approval and entry of the proposed decree are subject to section 113(g) of the Act, which requires notice and opportunity for comment on certain consent orders and settlement agreements to which the United States is a party. Accordingly, for a period of thirty (30) days following the date of publication of this notice, EPA will receive any written comments on the proposed decree. Under section 113(g), EPA or the Department of Justice may withhold or withdraw consent to the proposed decree if the comments disclose facts or circumstances indicating that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Dated: September 18, 1992.

Raymond B. Ludwiszewski,

Acting General Counsel.

[FR Doc. 92–23322 Filed 9–24–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4510–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 07, 1992 Through September 11, 1992 pursuant to the Environmental Review Process (ERP), under Section 309 of the clean air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–AFS–J02022–WY Rating EC2

Shoshone National Forest Oil and Gas Exploration and Development, Leasing, Fremont, Hot Springs Park, Sublette and Teton Counties, WY.

SUMMARY: EPA had environmental concerns with potential environmental impacts, particularly concerning the preservation of water quality, which should be avoided in order to fully protect the environment. EPA had significant concerns regarding the large

proportion of the forest classified as "High Soil and Water Hazard". Additionally, the DEIS does not contain sufficient information to fully assess environmental impacts that should be avoided and specific mitigation methods to minimize those impacts.

ERP No. D-AFS-J02025-CO Rating EC2

Routt National Forest Oil and Gas Exploration and Development, Approval and Leasing, Routt, Moffat, Jackson, Grand, Garfield and Rio Blanco Counties, CO.

SUMMARY: EPA had environmental concerns with potential environmental impacts, particularly concerning the preservation of air and water quality and the protection of wetland resources, which should be avoided in order to fully protect the environment.

ERP No. D-AFS-J65193-WY Rating LO

Strawberry Gulch Timber Sale, Timber Harvest and Road Construction, Implementation, Medicine Bow National Forest, Hayden Ranger District, Carbon County, WY.

SUMMARY: EPA had no environmental objections to the proposed project.

ERP No. D-AFS-K28017-CA Rating EC2

Running Springs Water District Wastewater Treatment Facilities Upgrading and Reclamation for Irrigation and Snow-Making at the Snow Valley Ski Resort, Approval, San Bernardino National Forest, San Bernardino County, CA.

SUMMARY: EPA expressed environmental concerns with the proposed project, including water quality, beneficial uses and air quality. EPA requested that the FEIS demonstrate that wastewater can be reclaimed without damaging existing water quality and beneficial uses. EPA requested further documentation of the projects's potential air quality impacts and consistency with efforts to maintain and improve regional air quality.

ERP No. D-FHW-E40745-NC Rating EC2

US 23/I-26 Corridor Transportation Improvements, NC-197/Barnardville Road to North Carolina-Tennessee State Line, Funding, COE Section 404 Permit and EPA National Pollutant Discharge Elimination System Permit, Buncombe and Madison Counties, NC.

SUMMARY: EPA's review found a potential for adverse water quality impacts related to construction activities in the mountainous region. Non-point source contributions and loss of upland habitats was also a concern. Additional information for controlling construction related impacts was requested.

ERP No. D-FHW-F40144-WI Rating EC2

WI-131 and WI-33 Transportation Improvement, Relocation and/or Reconstruction, between Village of Ontario and Community of Rockton, Funding and Possible COE 404 Permit, Vernon County, WI.

SUMMARY: EPA recommended that the Final EIS include an adequate wetland compensation plan. EPA also requested that additional information be provided on avoidance, minimization and compensation for the project's likely woodlands, park and natural areas impacts.

Final EISs

ERP No. F-AFS-J65180-UT

Deep Creek and Snow Bench Timber Sales, Approval and Implementation, Thousand Lake Mountain, Fishlake National Forest, Loa Ranger District, Wayne County, UT.

SUMMARY: EPA had no objections to the proposed action.

ERP No. F-AFS-J65186-MT

Bent Flat Timber Sale, Timber Harvest, Road Construction/ Reconstruction, Implementation, Flathead National Forest, Spotted Bear Ranger District, Flathead County, MT.

SUMMARY: EPA had no objections to the new preferred alternative.

ERP No. F-BLM-K60022-CA

Eagle Mountain Class III Nonhazardous Solid Waste Landfill Project and Specific Plan, Federal Land Exchange, Right-of-Way Approval and Section 404 Permit, Riverside County, CA.

SUMMARY: EPA expressed environmental concerns with potential impacts to groundwater, water quality, air quality and sensitive natural resources. EPA had special concern with the great difficulty in monitoring groundwater for possible releases of contaminants due to the faulted, fractured bedrock underlying the project site. EPA also expressed concerns whether hazardous waste would be illegally disposed with recyclable materials and whether a monitoring program could detect whether hazardous waste was being illegally disposed.

ERP No. F-FHW-F40292-IN

US 231/Wabash River Crossing Relocation and Construction, County Road 350S to West Lafayette, Funding and COE Section 404 Permit, Wabash River, Tippecanoe County, IN.

SUMMARY: EPA's concerns for avoidance/minimization of wetlands impacts, for prevention of undue water quality impacts and for noise impact mitigation have been satisfactorily addressed.

ERP No. F-FHW-K40180-AS

Territorial Route 50 in Pago Pago Park, Construction, Funding, U.S. Coast Guard Bridge Permit, and COE Section 10 and 404 Permits, Island of Tutuila, AS.

SUMMARY: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: September 21, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-23289 Filed 9-24-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4510-7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075. Availability of Environmental Impact Statements Filed September 14, 1992 Through September 18, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920373, DRAFT EIS, FHW, WI, US 10 Highway Transportation Improvement, US 45 to US 41 in the City of Appleton, Funding and Section 404 Permit, Winnebago County, WI, Due: November 09, 1992, Contact: Robert W. Cooper (608) 264-5940.

EIS No. 920374, FINAL EIS, BIA, WA, I-5/88th Street Northeast Interchange Construction Project, Traffic Circulation Improvements and Tulalip Tribes Reservation Direct Freeway Access, Approval, Coast Guard Bridge Permit and COE Section 404 Permit, Snohomish County, WA, Due: October 26, 1992, Contact: William Black (206) 258-2651.

EIS No. 920375, DRAFT EIS, AFS, OR, West Indigo Timber Sales and Other Projects Land and Resource Management Plan, Implementation, Siskiyou National Forest, Galice Ranger District, Curry County, OR, Due: November 09, 1992, Contact: William J. Gasow (503) 479-5301.

EIS No. 920376, DRAFT EIS, AFS, WY, Grand Targhee Ski Area Expansion Master Development Plan, Implementation, Targhee National Forest, Teton County, WY, Due: November 20, 1992, Contact: Lynn Ballard (206) 624-3151.

EIS No. 920377, DRAFT EIS, AFS, UT, Coyote Hollow Timber Sale, Implementation, Dixie National Forest, Escalante Ranger District, Garfield County, UT, Due: November 09, 1992, Contact: Kevin R. Schulkoski (801) 826-5400.

EIS NO. 920378, FINAL EIS, GSA, MA, New United States Courthouse in Boston, Construction and Operation, Site Selection and COE Section 10 Permit, Fan Pier in the Fort Point Channel, Boston, MA, Due: October 26, 1992, Contact: Peter Sneed (212) 264-3581.

Dated: September 21, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-23288 Filed 9-24-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4511-8]

Wisconsin: Partial Program Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Region 5; Environmental Protection Agency.

ACTION: Notice of tentative determination on partial program application of Wisconsin for partial program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal Criteria (40 CFR Part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate permit programs for MSWLFs, but does not mandate issuance of a rule for such determinations. The EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as final applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator on site specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR Part 258 to the extent the State/Tribal permit program allows such flexibility.

Wisconsin applied for a partial determination of adequacy under section 4005 of RCRA. The EPA reviewed Wisconsin's application and made a tentative determination of adequacy for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised Federal Criteria. These portions are described later in this notice. The State plans to revise the remainder of its permit program to assure complete compliance with the revised Federal Criteria, and gain full program approval. Wisconsin's application for partial program adequacy determination is available for public review and comment.

If sufficient public interest is expressed during the comment period, a public hearing will be held to solicit comment and public opinion on Wisconsin's partial program application for a determination of adequacy.

DATES: All comments on Wisconsin's application for a partial determination of adequacy must be received by U.S. EPA Region 5 by the close of business on November 17, 1992. If a public hearing is held, it will be scheduled for November 17, 1992. Wisconsin will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of Wisconsin's application for partial adequacy determination are available during 9 a.m. to 4 p.m. during normal working days at the following addresses for inspection and copying: Wisconsin Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, 53707, Attn: Ms. Lakshmi Sridharan; and U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Attn: Mr. Andrew Tschampa, mailcode HRP-8J. All written comments should be sent to the EPA Region 5 Office.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Attn: Mr. Andrew Tschampa, mailcode HRP-8J, telephone (312) 886-0976.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Federal Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the revised Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure compliance with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited, narrow part(s) of the State/Tribal program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR Part 258. These requirements, if promulgated, will address the potential problems posed by the dual State and Federal programs that will come into effect in October 1993 in those States that still have only partial approvals of their MSWLF programs. On that date, Federal rules covering any portion of a State's program that has not received EPA approval will become enforceable. Owners and operators of MSWLFs subject to such dual programs must be able to understand which requirements apply and comply with them. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of any flexibility allowed in those portions of the program that have been approved.

As provided in the revised Federal Criteria, EPA's national Subtitle D standards will take effect on October 9, 1993, in any State/Tribe that lacks an approved program. Consequently, any remaining portions of the Federal Criteria which are not included in an approved State/Tribal program by that

date would apply directly to the owner/operator.

EPA intends to propose to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA will ask State/Tribes that seek partial approvals to submit a narrative discussion of the structure of the State/Tribal program, as well as a summary of State/Tribal technical requirements that demonstrate technical comparability with the revised Federal Criteria. EPA is also requesting State/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in STIR.

B. State of Wisconsin

On July 27, 1992, Wisconsin submitted an application for partial program adequacy determination. EPA has reviewed Wisconsin's application and has tentatively determined that the following portions of the State's subtitle D program will ensure compliance with the revised Federal Criteria.

1. Location restrictions for airport safety, floodplains, and wetlands (40 CFR 258.10, 258.11, and 258.12);

2. Operating criteria for cover materials, disease vector control, access, surface water, and liquids restrictions (40 CFR 258.21, 258.22, 258.25, 258.27, and 258.28);

3. Groundwater monitoring and corrective action criteria for groundwater monitoring systems, groundwater sampling and analysis requirements, assessment of corrective measures, selection of remedy, and implementation of the corrective action program (40 CFR 258.51, 258.53, 258.56, 258.57, and 258.58);

4. Closure and post-closure care requirements (40 CFR 258.60 and 258.61); and

5. Financial assurance requirements and allowable mechanisms for closure, post-closure care, and corrective action (40 CFR 258.71, 258.72, 258.73, and 258.74).

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit program for a significant amount of time. This delay in determining the adequacy of the State/Tribal permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with permit programs which have been approved as adequate.

To ensure compliance with all of the revised Federal Criteria, Wisconsin needs to revise the following aspects of its permit program.

1. Wisconsin will revise its regulations to incorporate the Federal location restrictions for fault areas, seismic impact zones, and unstable areas in 40 CFR 258.13, 258.14, and 258.15.

2. Wisconsin will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste, explosive gases control, run-on/run-off control systems, and recordkeeping in 40 CFR 258.20, 258.23. 258.26, and 258.29. Wisconsin will also seek to amend a State statute to meet the Federal operating requirements for air criteria in 40 CFR 258.24.

3. Wisconsin will revise its regulations to include a minimum composite liner design which consists of a 60-mil high density polyethylene geomembrane over 4 feet of compacted clay, which is more stringent than the Federal design requirements in 40 CFR 258.40(a).

4. The Federal Criteria require unfiltered groundwater samples to be used in laboratory analysis. Currently, Wisconsin requires samples to be filtered and preserved in the field in accordance with standard published procedures. The Agency intends to revisit this issue during a proposed rulemaking. If the proposed rulemaking upholds the ban on field filtering, the State will be required to come into compliance with the provisions in 40 CFR 258.53(b). In the meantime, the State will not be given approval of this requirement.

5. Wisconsin will revise its regulations to incorporate detection and assessment groundwater monitoring parameters that are consistent with the revised Federal Criteria, but take advantage of the flexibility provided in 40 CFR 258.54 and 258.55.

6. Wisconsin will seek to amend a State statute to fully meet the financial assurance requirements in 40 CFR 258.70(a).

Wisconsin submitted a schedule indicating that it will be able to complete these revisions and amendments by October 9, 1995. To allow the State to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve those portions of the State's program that are ready for action today.

EPA reviewed the State's schedule and believes it is reasonable because of the complexity of Wisconsin's rulemaking process. The rulemaking process typically takes 18 months to complete. Wisconsin expects to begin revising the appropriate rules in January 1993. Additionally, Wisconsin must seek amendment of two State statutes. Requests to seek amendment of both the statutes have been placed in the preliminary draft of the Wisconsin Fiscal Year 1993–1995 Budget.

EPA cautions Wisconsin that it currently plans to propose in the STIR that all partial approvals will expire in October 1995 for States/Tribes that have not received final approval for all provisions of 40 CFR Part 258. Expiration of a partial approval would mean that the Federal Criteria would apply and the flexibility provided for approved States/Tribes by the Federal Criteria would no longer be available in the State/Tribe. EPA urges Wisconsin to work diligently to make all of the necessary revisions to those portions of its permit program that are not being proposed for approval today.

If there is sufficient public interest, the Agency will hold a public hearing on its tentative decision on November 17, 1992, from 9 a.m. to 12 p.m. at the Wisconsin Department of Natural Resources in Madison, Wisconsin. Comments can be submitted as transcribed from the discussion of the hearing or in writing at the time of the hearing. The public also may submit written comments on EPA's tentative determination until November 17, 1992. Copies of Wisconsin's application are available for inspection and copying at the location indicated in the "Addresses" section of this notice.

EPA will consider all public comments on its tentative determination that are received during the public comment period and the public hearing. Issues raised by those comments may be the basis for a determination of inadequacy for Wisconsin's program. EPA will make a final decision on whether or not to approve Wisconsin's program by December 31, 1992, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the revised Federal Criteria independent of any State enforcement program. As EPA explained in the preamble to the revised Federal Criteria, EPA expects that any owner or operator

complying with provisions in a State program approved by the EPA should be considered in compliance with the revised Federal Criteria.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended 42 U.S.C. 6907, 6927, 6928, 6945, 6947, 6974(b).

Dated: September 18, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92-23327 Filed 9-24-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4511-5]

Public Meeting to Discuss Environmental Requirements on Local Governments and Small Communities

On October 8-9, 1992, EPA will meet with local and state officials, public interest groups and environmental groups to discuss environmental requirements for local governments and small communities. The purpose of the meetings is to gather additional facts and exchange information regarding problems discussed at a public meeting with these participants on September 10, 1992.

Participants will meet in workgroups on October 8 to discuss issues of financing local government environmental services and infrastructure; regulatory flexibility, intergovernmental coordination and priority-setting at the local level; and data and information on the costs and benefits of environmental regulation. Workgroup leaders are preparing discussion papers for distribution at the meetings. An agenda for the October 9 plenary will be developed based on workgroup proceedings.

All meetings will be held at the National Rural Electric Cooperative Association, 1800 Massachusetts Ave. NW., Washington, DC 20036. Workgroups will meet October 8 from 10-4:30. The Finance Workgroup will meet in the third floor conference room; the Data and Information Workgroup will meet in the fifth floor conference room; and the Flexibility/Priorities Workgroup will meet in Conference Center Three. The plenary will meet October 9 from 9-4 in the Board Room.

All interested persons and organizations are invited to attend. Meeting minutes will be available and can be obtained upon written request to the Agency in care of Mr. Kerestesy at the Office of Regional Operations and State/Local Relations, H-1501, U.S. EPA, 401 M Street SW., Washington, DC 20460.

Gerald Fill,

Acting Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 92-23318 Filed 9-24-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4510-9]

Massachusetts Marine Sanitation Device Standard; Determination

On June 19, 1992, notice was published that the State of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all the coastal waters of the Town of Nantucket, County of Nantucket, within the State of Massachusetts (57 FR 27465). The petition was filed pursuant to section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4, for the purpose of declaring these waters a "no discharge area."

Section 312(f)(3) states:

After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, expect that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to me by the State of Massachusetts certified that there are six pump-out facilities available to service vessels in Nantucket coastal waters. Five are located within Nantucket Harbor, and a sixth is located in Madaket Harbor, at the western end of the island.

There are four pump-out facilities at the Nantucket Boat Basin, which is located on the western shore of Nantucket Harbor adjacent to the downtown area of the Town of Nantucket. There are two stationary pump-out units and two portable units available for use by both Nantucket Boat Basin patrons and transient vessels. In addition, the Boat Basin dock is equipped with deck fittings plumbed directly into the town sewer system that are used in conjunction with the portable units. With the deck fittings, the Boat Basin can service 95 percent of its vessels in their slips. The remaining five percent have access to the two stationary pump-out units. These pump-out facilities will accommodate vessels with a draft of twelve feet, and are open from 7 a.m., to 7 p.m., seven days a week. Pump-out services are free to patrons and $10 for all others.

A fifth pump-out facility is located on the Nantucket Town Pier, which is located just to the south of the Nantucket Boat Basin on Nantucket Harbor, and is operated by the Town of Nantucket. This pump-out facility will accommodate vessels with a draft of twelve feet, and is open from 8 a.m. to 8 p.m., seven days a week. Pump-out services are free of charge to all vessels.

The sixth pump-out facility is operated by Madaket Marine, which is located on Hither Creek, in Madaket Harbor. This portable pump-out facility will accommodate vessels with a five foot draft, and is open from 8 a.m. to 4:30 p.m., seven days a week. There is a $10 fee per pump-out.

The State of Massachusetts certified that the five pump-out facilities in Nantucket Harbor discharge directly to the town sewer system. The State of Massachusetts further certified that sewage collected at Madaket Marine is discharged into an above-ground holding tank and periodically collected by a septage hauler for disposal at the town wastewater treatment plant. The Nantucket Waste Water Treatment Facility is located on South Shore Road. This facility provides primary treatment before discharging to groundwater and has consistently met or exceeded EPA and Massachusetts Department of Environmental Protection standards.

The maximum daily vessel population for the coastal waters of Nantucket is approximately 1725. This includes 1250 vessels on private seasonal moorings registered with the Town of Nantucket,

and an average of 475 transient vessels per day. None of these vessels will be excluded from using one or more of the existing pump-out facilities.

A single set of comments was received by the Agency on the merits of the petition prior to the deadline for receipt of comments; it was from a Mr. Alan Spackman of Houston, Texas. Mr. Spackman's comments neither supported nor opposed the petition, but questioned several of the statements made in the June 19 **Federal Register** "Notice of Receipt." His main concern is consistent with that of EPA. If has been determined that vessels in transit to and from other points outside the proposed no discharge area (all the coastal waters of Nantucket, three miles seaward of its coastline) may include vessels incapable of reaching the pump-out stations due to draft limitations and/or vessels which may only be in the proposed no discharge area for a limited period of time while in transit, and that prohibiting discharges from such vessels may be both impracticable and unenforceable.

Therefore, based on an examination of the petition and its supporting information, which included a site visit by EPA Region I staff, and in consideration of the single comment received pursuant to the June 19 **Federal Register** notice, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for that portion of Nantucket coastal waters that lie within a straight line between Great Point on Nantucket Island and the western tip of Muskeget Island (delineated on NOAA chart #13237 by LORAN-C line 9960-Y-43850) to the limits of the Territorial Sea, and within a straight line between the southeast point of Muskeget Island and the southwest point of Tuckernuck Island, and between the southwest point of Tuckernuck Island and Smith Point of Nantucket Island. The exclusion of those waters outside the Territorial Sea boundary from the no discharge area is intended to prevent any jurisdictional conflicts. This determination is made pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Pubic Laws 95–217 and 100–4.

Dated: August 17, 1992.

Julie De Belaga,

Regional Administrator.

[FR Doc. 92–23319 Filed 9–24–92; 8:45am]

BILLING CODE 6560–50–M

[FRL–4511–4]

Proposed Assessment of Clean Water Act Class II Administrative Penalty to Cargill Incorporated and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal of a Clean Water Act Class II administrative penalty and notice of public comment period.

SUMMARY: Pursuant to 33 U.S.C. Section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Cargill Incorporated (Cargill Resin Products Division), 2801 Lynwood Road, Lynwood, CA 90262; Docket No. IX–FY92–33; filed on 18 September 1992 with Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $125,000, for violations of pretreatment categorical standards.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty days after the date of publication of this notice.

Dated: September 18, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

[FR Doc. 92–23323 Filed 9–24–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 17, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0298

Title: Part 61—Tariffs (Other Than Review Plan)

Action: Revision of a currently approved collection

Respondents: Businesses or other for-profit

Frequency of Response: On occasion reporting

Estimated Annual Burden: 2,700 response, 258.11 hours average burden per response; 696,890 hours total annual burden

Needs and Uses: The attached Memorandum of Opinion and Order on Second Further Reconsideration, in CC Docket No. 89–79/CC Docket No. 87–313, addresses petitions seeking reconsideration of those portions of the Part 69/ONA Order concerning the new services test of the local exchange carrier (LEC) price cap rules. The Commission clarifies and modifies the cost support required to

tariff new services offered by price cap LECs. First, in cases where a LEC develops a lower-cost version of an existing service, the Commission clarifies that the LEC may price that new service at any level below the price of the existing service. Second, the Commission modifies its rules so that they no longer require LECs to satisfy the net revenue test as part of the cost showing for new services. The Commission also denies, in all other respects, the petitions for reconsideration of the Part 69/ONA Order to the extent that they address the price cap new services test generally. The information collected through a carrier's tariff is used by the Commission to determine whether the services offered are just and reasonable as the Act requires. The tariffs and any supporting documentation are examined in order to determine if the services are offered in a just and reasonable and nondiscriminatory manner. If tariffs were not filed, the Commission could not carry out its responsibilities as required by the Act.

OMB Number: 3060–0475

Title: Section 90.713, Non-commercial nationwide entry criteria (Memorandum of Opinion and Order, PR Docket No. 89–552)

Action: Revision of a currently approved collection

Respondents: Individuals or households, state or local governments, and businesses or other for-profit (including small businesses)

Frequency of Response: Other: One time requirement at initial application or assignment

Estimated Annual Burden: 34 responses; 25 hours average burden per response; 850 hours total annual burden

Needs and Uses: Section 90.713 requires applicants for non-commercial nationwide systems in the 220–222 MHz band to submit additional information demonstrating that they satisfy the entry criteria specified in § 90.713. Specifically, the rule changes require non-commercial nationwide applicants to submit (1) certification that they have the necessary financing to construct at least one base station in a minimum of 70 markets which five rather than ten years of licensing; (2) a five-year schedule detailing plans for construction of the proposed system; (3) an itemized estimate of the cost of constructing the entire system within five years; and (4) a certification demonstrating an actual presence or long-term business plan that necessitates internal communications capacity in the 70 or more markets identified in the license application. Under the prior rules, non-commercial nationwide applicants were required to include a certification that they have the necessary financing to construct at least one base station in a minimum of 70 markets within ten years of licensing, and were not required to submit a certification of an actual presence or long-term business plan necessitating internal communications capacity in the markets identified in the application. Licensing Division personnel will use the data to determine the eligibility of the applicant to hold a radio station authorization. Land Mobile and Microwave Division personnel will use the data for rulemaking proceedings. Compliance personnel in conjunction with field engineers will use the data for enforcement purposes.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–23345 Filed 9–24–92; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for renewal of license of Noncommercial Educational Station WBMR–FM, Telford, Pennsylvania and for a New Noncommercial Educational FM station at Doylestown, Pennsylvania:

Applicant, and city and State	File No.	MM docket No.
A. United Educational Broadcasting, Inc.; Telford, PA.	BRED–910401B8	92–208
B. Bux-Mont Educational Radio Association; Doylestown, PA.	BPED–910701MA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each issue has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, published May 29, 1986. The letter shown before each applicant's name is used below to signify whether the issue applies to that particular applicant.

Issue Heading and Applicant

1. Environmental Impact, B

2. 307(b)—Noncommercial Educational, A, B

3. Ultimate, A, B

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are forth in the Appendix to this Notice. A copy of the complete HDO is this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st St. NW., Washington, DC 20036 (Telephone (202) 452–1422).

W. Jan Gay,

Assistnat Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 92–23347 Filed 9–24–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

ABC Bancorp; Amended

This notice amends a previous **Federal Register** document (FR Doc. 92–22204), published at page 42586 of the issue for Tuesday, September 15, 1992.

Under the Federal Reserve Bank of Atlanta, the entry for ABC Bancorp is amended to read as follows:

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *ABC Bancrop,* Moultrie, Georgia; to acquire 100 percent of the voting shares of Cairo Banking Company, Cairo, Georgia. Comments on this application must be received not later than September 25, 1992.

* * * * *

Board of Governors of the Federal Reserve System, September 22, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–23448 Filed 9–23–92; 12:15 pm]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 5 U.S.C. 18a, as added by title II of the Hart-Scott-Rodina Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney

General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 083192 AND 091192

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
MAPCO Inc., Simon R. and Elaine Navickas, husband and wife, Eden Gas Co., M-V Gas Co., Gas Supply Inc., Rapids	92-1359	08/31/92
Ralph J. Roberts, Eastern TeleLogic Corp., Eastern TeleLogic Corp	92-1395	08/31/92
Banner Aerospace, Inc., Pan Am Corp., Pan Am World Airways, Inc	92-1424	08/31/92
Solectron Corp., International Business Machines, International Business Machines	92-1404	09/02/92
KN Energy,Inc., Phillips Petroleum Co., GPM Gas Corp	92-1407	09/03/92
T.H. Etheridge, CMF Investors Inc., Choctaw Maid Farms, Inc	92-1418	09/03/92
Motorola, Inc., Phillip N. and Mary A. Lyons, Airwave Communications Corp. (San Francisco)	92-0763	09/04/92
Mohawk Industries, Inc., Horizon Industries, Inc., Horizon Industries, Inc	92-1365	09/04/92
Bass plc, W.B. Johnson, Shipyard Hotel Venture	92-1383	09/04/92
Jack W. Baker, Fleming Companies, Inc., Fleming Companies, Inc	92-1391	09/04/92
Fleming Companies, Inc., Robert L. Baker, Baker's Supermarkets, Inc	92-1398	09/04/92
Mobil Corp., Exxon Corp., Exxon Corp	92-1419	09/04/92
Exxon Corp., Mobil Corp., Mobil Oil Corp	92-1420	09/04/92
Methanex Corp., Metallgesellschaft AG, MG Fortier, Inc	92-1423	09/04/92
Ono Pharmaceutical Co., Ltd., Telios Pharmaceuticals, Inc., Telios Pharmaceuticals, Inc	92-1433	09/04/92
Swiss Bank Corp., O'Connor Partners, O'Connors Partners	92-1448	09/04/92
Alco Standard Corp., Olympia & York Developments Ltd., Abitibi-Price Inc	92-1449	09/04/92
Columbus II Limited Partnership, The Dyson-Kissner-Moran Corp., Arrow Group Industries, Inc	92-1442	09/09/92
Kimberly-Clark Corp., Richard T. Santulli, Executive Jet International, Inc., A.F.M. Corp	92-1413	09/10/92
Paramount Communications Inc., American Financial Corp., Kings Island Co	92-1425	09/10/92
Don Tyson, Philip Morris Companies Inc., Louis Kemp Seafood Co	92-1445	09/10/92
Jan Tonnby, ASEA AB, ABB Trading (US) Inc	92-1436	09/11/92
Jan Tonnby, BBC Brown Boveri Ltd., ABB Trading (US) Inc	92-1437	09/11/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives.

Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-23311 Filed 9-24-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. Medicare Beneficiary Surveys—0990-0981—Reinstatement—The Office of Inspector General plans to conduct both national and State specific surveys of Medicare beneficiaries to determine experience and satisfaction with Medicare services. The information is needed to identity program inefficiencies and monitor the effectiveness of corrective actions taken by the Department. Findings will be compared to those of previous surveys. *Respondents:* individuals; *Annual Number of Respondents:* 2090; *Frequency of Response:* once; *Average Burden per Response:* 20 minutes; Estimated Annual Burden: 697 hours. *OMB Desk Officer:* Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-0511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: September 11, 1992

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 92-22772 Filed 9-24-92; 8:45 am]

BILLING CODE 4150-04-M

Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register.**

The Secretary of the Treasury has certified a rate of 14% for the quarter ended September 30, 1992. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: September 15, 1992.

William Topolewski,

Acting Deputy Assistant Secretary, Finance.

[FR Doc. 92-23265 Filed 9-24-92; 8:45 am]

BILLING CODE 4150-04-M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Board on October 14, 1992. The meeting will take place from 9 a.m. to 11:30 a.m. in Conference Room 7, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of speaker phones.

The meeting, which will be open to the public from 9 a.m. to 11:10 a.m., is being held to discuss scientific advances in the field of balance and the vestibular system since the National Strategic Research Plan for that area was developed. Attendance by the public will be limited to the space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 11:10 a.m. to adjournment for the discussion and recommendation of individuals to serve as consultants to the Research Priorities Subcommittee. This discussion could reveal personal information concerning these individuals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301–402–1129, upon request.

(Catalog of Federal Domestic assistance Program No. 93.173, Biological Research Related to Deafness and Other Communication Disorders.)

Dated: September 2, 1992.

Susan K. Fledman,

Committee Management Officer, NIH.

[FR Doc. 92–23308 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting (President's Cancer Panel Special Commission on Breast Cancer)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, November 12, 1992, at the National Institutes of Health, 9000 Rockville Pike, Building 1, Wilson Hall, Bethesda, Maryland 20892.

This meeting will be open to the public on November 12 from 9 a.m. to 5 p.m. Attendance will be limited to space available. Agenda items will include presentations by invited speakers on the topic of "Hormonal Factors in Breast Cancer Development and Therapy."

Iris J. Schneider, Acting Executive Secretary, President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, Building 31, room 4A34, National Inststitutes of Health, Bethesda, Maryland 20892, 301/496–1148, will provide a roster of the Commission members and substantive program information upon request.

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23299 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting (President's Cancer Panel Special Commission on Breast Cancer)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, October 23, 1992, at the Holiday Inn Crowne Plaza, Metro Center, 775 12th Street, NW., Washington, DC 20005.

This meeting will be open to the public on October 23 from 8:30 a.m. to 5 p.m. Attendance will be limited to space available. Agenda items will include presentations by invited speakers on the topic of "Patient Advocacy and Voluntary Organizations."

Iris J. Schneider, Acting Executive Secretary, President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, Building 31, Room 4A34, National Institutes of Health, Bethesda, Maryland 20892, 301/496–1148, will provide a roster of the Commission members and substantive program information upon request.

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23300 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on October 22–23, 1992. The meeting will be held in Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 1 p.m. to recess on October 22 and from 9 a.m. to adjournment on October 23 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 9 a.m. to approximately 1 p.m. on October 22 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Carole A. Frank, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6927) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 4, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23306 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Division of Cancer Treatment Board of Scientific Counselors; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, October 9–20, 1992, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 19 from 8:30 a.m. to approximately 6:15 p.m., and again on October 20 from approximately 10:45 a.m., until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 20 from 8 a.m., to approximately 10:30 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5708) will provide summaries of the meeting and roster of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301–496–4291) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 2, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23307 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting (President's Cancer Panel)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, November 13, 1992, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

This meeting will be open to the public on November 13, 1992, 8:30 a.m. to 12:30 p.m. Attendance will be limited to space available. Agenda items will include reports by the Chairman, President's Cancer Panel, the Director, NCI, and invited participants discussing the topic "Prostate Cancer."

Ms. Iris Schneider, Acting Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A48, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5534) will provide a roster of the Panel members and substantive program information upon request.

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23298 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Board on Medical Rehabilitation Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Board on Medical Rehabilitation Research, National Institute of Child Health and Human Development, October 22–23, 1992, Gaithersburg Marriott Hotel, 620 Perry Parkway, Gaithersburg, Maryland 20877.

The two-day meeting will be open to the public from 8:30 a.m. to 5 p.m. on October 22 and 8 a.m. to adjournment on October 23. Attendance by the public will be limited to space available. The Board will review and assess ongoing and future Federal priorities, activities, and initiatives regarding medical rehabilitation research, future direction and activities of the National Center for Medical Rehabilitation Research (NCMRR), and a report on the previous year funding within the NCMRR.

Ms. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North, room 520, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301–496–1485, will provide a summary of the meeting and a roster of Advisory Board members as well as substantive program information. If you have specific disability-related requirements please call.

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23303 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting, End-Stage Renal Disease Data Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the End-Stage Renal Disease Data Advisory Committee on November 2, 1992. The meeting will begin at 9 a.m. and end at approximately 3:30 p.m. in Conference Room 732, East High Rise Building, Health Care Financing Administration, 6325 Security Blvd., Baltimore, Maryland. The meeting, which will be open to the public, is being held to discuss the status regarding implementation of the 1991 Annual Report recommendations, reports from other federal agencies and discussion of the 1992 Annual Report. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, End-Stage Renal Disease Data Advisory Committee, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23301 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of the Task Force on Aging Research

Pursuant to Public Law 92–463, notice is hereby given that the Task Force on Aging Research will meet on October 9, 1992, 9 to 11 a.m. in Conference Room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The entire meeting will be open to the public. The Task Force will meet to review the report of the Task

Force Technical Working Group and adopt an operational plan for the coming year. Attendance by the public will be limited to space available.

Interested persons should contact Ronald P. Abeles, Ph.D., Executive Secretary, Task Force on Aging Research, the Gateway Building, 7201 Wisconsin Avenue, suite 2C–234, Bethesda, Maryland 20892, at (301) 496–3136 for further details, confirmation of location, and substantive information on the meetings.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23305 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Meeting of the Division of Research Grants Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Division of Research Grants Advisory Committee, November 16–17, 1992, Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public, from 8:30 a.m. to 4:30 p.m. on November 16, and from 8:30 a.m. to 1 p.m. on November 17. The topics for the two-day meeting will include the NIH strategic plan, the NIH peer review process, the orientation of new study section members, amended applications, and resignations and declinations from study section service. Attendance by the public will be limited to space available.

The Office of Committee Management, Division of Research Grants, Westwood Building, room 453, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–7534, will furnish a summary of the meeting and a roster of the committee members.

Dr. Samuel Joseloff, Executive Secretary of the Committee, Westwood Building, room 449, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7441, will provide substantive program information upon request.

Dated: September 21, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–23302 Filed 9–24–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–2934–N–97]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 25, 1992.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-imparied (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 18, 1992.

Randall H. Erben,

Acting Assistant Secretary.

[FR Doc. 92–23136 Filed 9–24–92; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Ukiah District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, Ukiah, California, District Advisory Council.

SUMMARY: Pursuant to Public Law 94–579 and 43 CFR 1780, the Ukiah District Advisory Council will meet in Redding, California, October 21–22, 1992. The agenda will include field tours of the Grass Valley Creek Watershed and the Trinity River Recreation Area the first day, followed by BLM briefings and Council action, as appropriate, the second day. Agenda topics, besides Grass Valley Creek Watershed and Trinity River, will include the Spotted Owl Recovery Plan and management of scattered tracts. A complete agenda is available from the Ukiah BLM Office.

DATES: October 21, 8 a.m. to 5 p.m., and October 22, 8 a.m. to 2 p.m.

ADDRESSES: October 21, Field Tours, departing from the BLM Office, 355 Hemsted Drive, Redding at 8:00 a.m. Public participation needs to be arranged ahead of time. October 22, Bureau of Land Management conference room, 355 Hemsted Drive, Redding.

FOR FURTHER INFORMATION CONTACT: Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462–3873.

SUPPLEMENTARY INFORMATION: All meetings of the Ukiah District Advisory Council are open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 10 a.m. Thursday, October 22. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: September 14, 1992.

David E. Howell,

District Manager.

[FR Doc. 92–23264 Filed 9–24–92; 8:45 am]

BILLING CODE 4310–40–M

[MT–064–4333–11]

Montana Off-Road Vehicle Designation

AGENCY: Bureau of Land Management—Valley Resource Area.

ACTION: Notice to limit off-road vehicle use on public lands.

SUMMARY: The Bureau of Land Management has entered into a Block Management Agreement with Page-Whitham Ranches of south Valley County, Montana, and the Montana Department of Fish, Wildlife and Parks. In accordance with this agreement, the following rules will be in effect within the designated area from October 1, 1992 to November 30, 1992.

—Vehicles must stay on existing roads/trails designated as open. Maps of the area boundary and of roads/trails designated open are available from the BLM and Montana Department of Fish, Wildlife & Parks offices in Glasgow, Montana and three field locations on the perimeter of the area boundary.
—Off-road vehicle use is allowed on public lands for game retrieval only.
—All gates should be left as signed.
—Open fires and littering is prohibited.

The block management area is described as all lands within the Square Creek, Desert Coulee, Taylor Coulee, Sheep Shed and Stone House pastures of the Carpenter Creek allotment. Legal description of the public lands within the block management area are as follows:

All or portions of the following sections in Valley County, Montana:

T. 25 N., R. 34 E., Sections 34 and 35
T. 25 N., R. 25 E., Sections 25 through 35
T. 25 N., R. 36 E., Sections 28 through 33
T. 24 N., R. 34 E., Sections 1, 2, 11, 12–14, 23
T. 24 N., R. 35 E., 1–5, 7–15, 17–20, 23–28, 33–35
T. 24 N., R. 36 E., 3–9, 17–18, 30–31
T. 23 N., R. 35 E., Sections 2, 3.

DATES: This designation will be in effect from October 1, 1992 through November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Michael R. Holbert, Valley Resource Area, Area Manager, Route 1–4775, Glasgow, MT 59230–9796.

SUPPLEMENTARY INFORMATION: These regulations apply as found in 43 CFR 8364.1.

Dated: September 18, 1992.

David L. Mari,

District Manager.

[FR Doc. 92–23263 Filed 9–24–92; 8:45 am]

BILLING CODE 4310–DN–M

[ID–050–02–1540–11–G348]

Vehicle Use Restrictions; Idaho

AGENCY: Bureau of Land Management (BLM), Interior, Shoshone District Office.

ACTION: Restricted vehicle use, closure order.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8341.2, that some land located in the Monument Resource Area is restricted to all vehicle use unless authorized. This will include 3- and 4-wheeled ATVs, dual purpose and off-road motorcycles, dune buggies or dune rails, cars, trucks, and mountain bicycles.

This emergency closure is necessary to protect watershed, vegetation, wildlife, and wilderness resources following four wild fires which burned approximately 205,000 acres in August, 1992. Interdisciplinary teams have prepared fire rehabilitation plans for the Ro, Black Ridge, Potter Butte, and Great Rift Fires. The Shoshone District Manager approved these plans on August 27, 1992.

Each of the four plans address the need for and locations of vehicle closures within the fire perimeters as part of fire rehabilitation efforts. BLM anticipates that the closures will gradually be lifted as vegetation recovers over a period of two to five years. At present, severe damage to the resources could result from vehicle use. Vehicle use would also conflict with, and reduce the effectiveness of, planned rehabilitation activities including seeding, road and trail repair, watershed protection structures, and interim management of wilderness study areas.

Restricted Areas

Ro Fire: The 25,000-acre Ro Fire is generally located immediately to the west of Bellevue and Hailey, Idaho, and is further described as follows:

T. 2 N., R. 17 E., Boise Meridian,
Portions of Sections: 33, 34, 35.
T. 1 N., R. 17 E., B.M.,
All of Section: 10;
Portions of Sections: 1, 2, 3, 4, 9, 11, 13, 15, 24.
T. 2 N., R. 18 E., B.M.,
Portions of Sections: 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35.
T. 1 N., R. 18 E., B.M.,
All of Sections: 4, 5;
Portions of Sections: 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 29, 30.

All BLM-administered land within the Ro Fire perimeter, including all roads and trails, are hereby closed to all types of vehicles, year-around.

Black Ridge Fire: The 150,000-acre Black Ridge Fire is generally located seven miles east of Richfield, Idaho. The fire burned in four wilderness study areas (WSAs). The following burned areas within those WSAs are closed to all vehicles year-around: Raven's Eye WSA (ID–57–10)—24,267 acres, Sand Butte WSA (ID–57–8)—22,928 acres, Little Deer WSA (ID–57–11)—8,811 acres, and the Great Rift WSA (ID–33–1)—2,387 acres. These closure areas are further described as follows:

T. 2 S., R. 22 E., Boise Meridian,
Portions of Sections: 14, 15, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35.
T. 2 S., R. 23 E., B.M.,
Portions of Sections: 19, 30, 31.
T. 3 S., R. 21 E., B.M.,
All of Sections: 25, 35, 36;
Portions of Sections: 13, 14, 22, 23, 24, 26, 27, 34.
T. 3 S., R. 22 E., B.M.,
All of Sections: 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 23, 26, 27, 31, 35;
Portions of Sections: 1, 6, 7, 8, 12, 13, 18, 19, 24, 25, 28, 29, 30, 32, 33, 34.
T. 3 S., R. 23 E., B.M.,
All of Sections: 7, 18;
Portions of Sections: 5, 6, 8, 9, 16, 17, 19, 20, 21, 22, 23, 26, 27.
T. 3 S., R. 24 E., B.M.,
Portions of Section: 31.
T. 4 S., R. 21 E., B.M.,
All of Sections: 1, 2, 3, 11, 12;
Portions of Sections: 4, 10, 13, 14, 15, 24.
T. 4 S., R. 22 E., B.M.,
All of Sections: 2, 4, 5, 6, 7, 8, 9, 11, 16, 17, 18, 20, 21;
Portions of Sections: 1, 3, 10, 12, 13, 14, 15, 19, 22, 27, 28, 29, 33.
T. 4 S., R. 23 E., B.M.,
Portions of Sections: 1, 6, 7, 13, 24, 25, 36.
T. 4 S., R. 24 E., B.M.,
Portions of Sections: 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33.
T. 5 S., R. 23 E., B.M.,
Portions of Sections: 1, 2, 10, 11, 12, 13, 14.
T. 5 S., R. 24 E., B.M.,
Portions of Sections: 4, 5, 6, 7, 8, 9, 16, 17, 18.

Great Rift Fire: The 10,000-acre Great Rift Fire is generally located 18 miles southeast of Carey, Idaho. The fire burned 2,357 acres in the Great Rift WSA. This area is closed to all vehicles, year-around and is further described as follows:

T. 3 S., R. 25 E., Boise Meridian,
Portions of Sections: 21, 22, 27, 28, 31, 32, 33.
T. 4 S., R. 24 E., B.M.,
Portions of Sections: 1, 2, 11, 12.
T. 4 S., R. 25 E., B.M.,
Portions of Sections: 5, 6, 7.

Potter Butte Fire: The 20,000-acre Potter Butte Fire is generally located 16 miles east of Carey, Idaho. The fire burned in two wilderness study areas (WSA). The following burned areas within those WSAs are closed to all vehicles year-around: Bear Den Butte WSA (ID–57–14)— 711 acres, and the Great Rift WSA—2,114 acres. These closure areas are further described as follows:

T. 2 S., R. 24 E., Boise Meridian,
Portion of Section: 34.
T. 3 S., R. 24 E., B.M.,
Portions of Sections: 1, 2, 11, 12.
T. 1 S., R. 25 E., B.M.,
Portions of Sections: 18, 19, 20, 29, 32.
T. 2 S., R. 25 E., B.M.,
Portions of Sections: 5, 8, 17, 19, 20, 30, 31.

Any BLM employee, agent, contractor and cooperator, while in the performance of official duty, is exempt from these closures. The BLM may authorize volunteers or other parties to enter the area for administrative, maintenance or other purposes.

An information handout has been developed for the public with a map

showing all of the vehicle closures. Signs have been placed to identify the boundaries of the closures. Official maps of the described areas are on file and available to the public at the Shoshone District Office.

EFFECTIVE DATE: This restricted vehicle use and closure order is effective immediately and shall remain in effect until revised, revoked or amended by the authorized officer pursuant to 43 CFR 8341.

FOR FURTHER INFORMATION CONTACT: Rick Vander Voet, Outdoor Recreation Planner, Monument Resource Area, Shoshone District Bureau of Land Management, 400 West "F" Street, PO Box 2–B, Shoshone, ID 83352, telephone (208) 886–2206.

Dated: September 18, 1992.

Janis L. VanWyhe,

Acting District Manager.

[FR Doc. 92–23312 Filed 9–24–92; 8:45 am]

BILLING CODE 4310–GG–M

[G–910–G62–0101; 4320–08]

Intent To Prepare a Resource Management Plan Amendment/ Environmental Assessment (RMPA/ EA); New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Amendment to the Taos Resource Management Plan (RMP) allowing cattle to graze in the Loop Road area. The plan amendment will be called the "Loop Pasture Amendment to the Taos RMP," and is specifically limited to this issue.

SUMMARY: The Taos Resource Area (TRA), Bureau of Land Management (BLM), proposes an amendment to the Taos RMP which was completed in 1988. The amendment would allow livestock use in the Loop pasture during the fall grazing season thereby minimizing conflict with recreational users.

The Taos RMP called for the elimination of livestock grazing in the Loop pasture. An agreement was negotiated with the grazing permittee to complete a brush treatment in an adjacent pasture to mitigate the loss of Animal Unit Months (AUM's). An Environmental Assessment (EA) was drafted and went out to the public for review and comment assessing impacts of controlling brush on an adjacent pasture. Due to the controversial nature of the proposed action, a herbicide treatment, many concerned citizens were heard from during the comment period.

The proposed amendment is a result of public comments. Many people felt that there is very little conflict between recreationists and fall cattle grazing.

Livestock grazing, with seasonal restrictions, is also compatible with other objectives of the Wild Rivers Recreation Area which include developed and undeveloped recreation, wildlife viewing, environmental education, and visual resource management.

The Loop pasture has been grazed primarily during the fall for many years and is in good condition. It would provide an excellent opportunity for environmental education, showing how a variety of grazing management prescriptions impact ecological conditions.

A team of interdisciplinary specialists with backgrounds in Wildlife Biology, Range Management, and Outdoor Recreation Planning will be involved in the preparation of the Plan Amendment/ EA.

DATES: Interested parties may submit comments regarding concerns or issues to be addressed in the plan amendment through October 15, 1992.

ADDRESSES: Comments should be sent to Area Manager, Bureau of Land Management, Taos Resource Area Office, 224 Cruz Alta Road, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Richard Maggio, BLM, Taos Resource Area Office, 224 Cruz Alta Road, Taos, New Mexico 87571, 505–758–8851.

SUPPLEMENTARY INFORMATION: After the comment period in this Notice of Intent, the BLM will prepare and RMPA/EA. Following the preparation of the RMPA/ EA, a Record of Decision will be prepared. A Notice of Availability will announce the availability of the Plan Amendment/EA and Record of Decision in a subsequent **Federal Register**.

Dated: September 18, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92–23374 Filed 9–21–92; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Availability of an Agency Draft Recovery Plan for White-Haired Goldenrod for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of an agency draft recovery plan for white-haired goldenrod. This species is found primarily on publicly owned lands in Menifee, Powell, and Wolfe Counties, Kentucky. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 24, 1992, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806, telephone 704/665–1195. Written comments and materials regarding the plan should be addressed to the Field Supervisor at this address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the address and telephone number shown above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The agency draft recovery plan for white-haired goldenrod outlines a

mechanism that provides for the recovery and eventual delisting of this federally endangered species. White-haired goldenrod was listed as a threatened species primarily because of trampling of its habitat by hikers, campers, and archaeological looters. The plan requires that the Service and other cooperators in the recovery of this species determine the biological requirements of the species, determine the number of individuals that constitutes a viable population, and determine and implement the management actions needed to ensure the continued existence of at least 40 occurrences. This draft of the recovery plan was preceded by a technical review draft that was reviewed by species experts and by experts in the protection of rare plants. Comments and information provided during this review will be used in preparing the final recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 16, 1992.

Richard G. Biggins,

Acting Field Supervisor.

[FR Doc. 92-23313 Filed 9-24-92; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-335]

Decision Not To Review an Initial Determination Terminating Investigation With Prejudice

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

In the matter of Certain Dynamic Sequential Gradient Compression Devices and Component Parts Thereof.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 12) issued on August 31, 1992, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the motion of complainant The Kendall Company ("Kendall") to withdraw its complaint and terminate the investigation with prejudice.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-3087.

SUPPLEMENTARY INFORMATION: On January 10, 1992, Kendall filed a complaint under section 337 alleging unfair acts in the importation and sale of certain dynamic sequential gradient compression devices and component parts thereof. The complaint alleged, *inter alia*, importation and sale of articles infringing U.S. Letters Patent 4,029,087 ("the '087 patent"), owned by Kendall. Kendall concurrently moved for temporary relief. The Commission instituted an investigation of Kendall's complaint and provisionally accepted Kendall's motion for temporary relief on February 20, 1992. The notice of investigation named two respondents: Huntleigh Technology PLC, a British corporation, and Huntleigh Technology, Inc., a Delaware corporation. 57 FR 6126 (February 20, 1992). The notice of investigation was subsequently amended to add Huntleigh Medical Limited, a British corporation, as a respondent. 57 FR 32561 (July 22, 1992).

On May 15, 1992, the ALJ issued an ID denying Kendall's motion for temporary relief on the grounds that: (1) The pertinent claims of the '087 patent were likely invalid for obviousness under 35 U.S.C. 103, (2) these claims were likely not infringed by respondents, (3) Kendall was unlikely to establish the existence of a domestic industry with respect to the '087 patent, and (4) the balance of equities did not favor issuance of temporary relief. On June 15, 1992, the Commission vacated the ID's discussion of obviousness but did not modify or vacate the ID in any other respect. The Commission's action had the effect of denying Kendall's motion for temporary relief. 57 FR 27475 (June 19, 1992).

On July 17, 1992, Kendall filed an unopposed motion seeking leave to withdraw its complaint and to terminate the investigation with prejudice. The ALJ issued an ID granting the motion on August 31, 1992. No petitions for review of the ID were filed. This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rules 210.51 and 210.53(h), 19 CFR 210.51, 210.53(h).

Copies of the ID and all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Dated: September 21, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-23285 Filed 9-24-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent to Perform Interstate Transportation for Certain Nonmembers

Date: September 22, 1992.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Land O' Lakes, Inc., 4001 Lexington Avenue North
(2) Arden Hills, MN 55126
(3) 4001 Lexington Avenue North, Arden Hills, MN 55126
(4) Herb Sorvik, P.O. Box 116, Minneapolis, MN 55440.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-23321 Filed 9-24-92; 8:45 am]

BILLING CODE 7035-01-M

JUDICIAL CONFERENCE OF THE UNITED STATES

Judicial Conference Advisory Committee on Appellate Rules; Meeting

AGENCY: Judicial Conference of the United States.

SUBAGENCY: Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Advisory Committee on Appellate Rules. The meeting will be open to public observation but not participation. The meeting will commerce each day at 8:30 a.m.

DATES: October 20–21, 1992.

ADDRESSES: University of Notre Dame, Law School, Notre Dame, Indiana 46556.

FOR FURTHER INFORMATION CONTACT: Joseph F. Spaniol, Jr., Secretary, Committee on Rules of Practice and Procedure, Washington, DC 20544, telephone (202) 633–6021.

Dated: September 14, 1992.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 92–22989 Filed 9–24–92; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Aircraft/Vessel Report.
(2) I–92. Immigration and Naturalization Service.
(3) On occasion.
(4) Businesses or other for-profit. Federal agencies or employees. The I–92 information is used to fulfill manifest requirements and is used by other agencies for data collection and statistical analysis.
(5) 600,000 annual responses at .18 hours per response
(6) 108,000 annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for Transfer of Petition for Naturalization.
(2) N–455. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The N–455 is used by the petitioner for naturalization to request a transfer of their petition to another court and is used by INS to make a recommendation to the court.
(5) 100 annual responses at .166 hours per response.
(6) 17 annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for Temporary Resident Status as a Replenishment Agricultural Worker (RAW).
(2) I–805. Immigration and Naturalization Service.
(3) Annually.
(4) Individuals or households. The I–805 is used by INS to determine whether a person is admissible to the United States as an immigrant and eligible for RAW status according to the eligibility requirements of the regulations.
(5) 300,000 annual responses at .5 hours per response.
(6) 150,000 annual burden hours.
(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: September 22, 1992.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 92–23314 Filed 9–24–92; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling

the Departmental Clearance Officer, Kenneth A. Mills ((202) 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Bureau of Labor Statistics
Survey of Employer-Provided Training
BLS 9200

Form	Affected public	Respondents	Frequency	Average time per response
Mail quantity	Business or other for-profit	3,800	One time	20 minutes.
Follow-up quantity	Business or other for-profit	5,100	One time	30 minutes.

3,817 total hours.

The lack of nationally representative information on the provision of training in establishments is a serious handicap to the implementation of effective public policy. This survey will collect such information and report on the provision of training by industry and size of establishment.

Revision

Bureau of Labor Statistics
1220–0067
Application for BLS Occupational Safety and Health Statistics Cooperative Agreements; BLS–OSHS Quarterly Financial Reporting Form

Form	Affected public	Respondents	Frequency	Average time per response
BLS–OSHS1	States	57	Annually	2 hours.
BLS–OSHS2	States	57	Quarterly	1 hour.

342 total hours.

The BLS enters into cooperative agreements with States and political subdivisions thereof, to assist them in developing and administering programs dealing with occupational safety and health statistics and to arrange through these agreements for research to further the objectives of the Occupational Safety and Health Act.

Signed at Washington, DC, this 21st day of September, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92–23365 Filed 9–24–92; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and

fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Florida:
FL91-53 (Sept. 25, 1992)..... p. All.

Volume III

Wyoming:
WY91-9 (Sept. 25, 1992)..... p. All.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page numbers(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Delaware:
DE91-4 (Feb. 22, 1991)..... p. All.
Florida:
FL91-7 (Feb. 22, 1991)..... p. All.
Kentucky:
KY91-3 (Feb. 22, 1991)..... p. All.
KY91-29 (Feb. 22, 1991)..... p. 403, 408.
New Jersey:
NJ91-2 (Feb. 22, 1991)..... p. 701, pp. 702, 709.
NJ91-3 (Feb. 22, 1991)..... p. 721, pp. 722, 726, p. 727.
New York:
NY91-2 (Feb. 22, 1991)..... p. 777, p. 778.
NY91-3 (Feb. 22, 1991)..... p. 797, pp. 799-801.
NY91-5 (Feb. 22, 1991)..... p. 817, p. 819.
NY91-21 (Feb. 22, 1991)..... p. 952a, pp. 952b-952c.

Volume II

Illinois:
IL91-1 (Feb. 22, 1991)..... p. 69, p.79.
IL91-2 (Feb. 22, 1991)..... p. 97, pp. 103, 114a.
IL91-6 (Feb. 22, 1991)..... p. 133, p. 135.
IL91-8 (Feb. 22, 1991)..... p. 145, p. 148
IL91-11 (Feb. 22, 1991)..... p. 163, p. 166.
IL91-12 (Feb. 22, 1991)..... p. 171, pp. 173, 174.
IL91-13 (Feb. 22, 1991)..... p. 183, p. 186.
IL91-14 (Feb. 22, 1991)..... p. 195, p. 198.
IL91-15 (Feb. 22, 1991)..... p. 205, p. 208.
Il91-17 (Feb. 22, 1991)..... p. 225, pp. 231-236b.
Indiana:
IN91-1 (Feb. 22, 1991)..... p. 243, p. 244.
IN91-2 (Feb. 22, 1991)..... p. 259, pp. 260, 263, p. 265.
IN91-3 (Feb. 22, 1991)..... p. 279, p. 284.
IN91-4 (Feb. 22, 1991)..... p. 291, pp. 292-296.
IN91-5 (Feb. 22, 1991)..... p. 305, pp. 306-309.
IN91-6 (Feb. 22, 1991)..... p. 315, pp. 316, 320, p. 321.
Iowa:
IA91-18 (Feb. 22, 1991)..... See notice.
Michigan:
MI91-1 (Feb. 22, 1991)..... p. 441, p. 444.
MI91-2 (Feb. 22, 1991)..... p. 461, pp. 463-476.
MI91-3 (Feb. 22, 1991)..... p. 477, p. 479.
MI91-5 (Feb. 22, 1991)..... p. 499, pp. 500-501.

Volume III

Hawaii:
HI91-1 (Feb. 22, 1991)..... p. All.
Nevada:
NV91-7 (Feb. 22, 1991)..... p. All.
NV91-9 (Feb. 22, 1991)..... p. All.
Washington:
WA91-1 (Feb. 22, 1991)..... p. All.
WA91-2 (Feb. 22, 1991)..... p. All.
Wyoming:
WY91-5 (Feb. 22, 1991)..... p. All.
WY91-6 (Feb. 22, 1991)..... p. All.
WY91-7 (Feb. 22, 1991)..... p. All.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Goverment Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 18th day of September 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-23116 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-26, 958, et. al.]

Anschutz Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the Matter of TA-W-26,958 Denver, Colorado, TA-W-26,958A. Houston, Texas, TA-W-26,958B Midland, Texas, and TA-W-26,958C Oklahoma City, Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor initially issued a Notice of Negative Determination on April 16, 1992. The denial notice was published in the **Federal Register** on May 22, 1992 (57 FR 21829). Subsequently, the Department reopened the investigation and issued a Revised Certification for Worker Adjustment Assistance on May 6, 1992 applicable to all workers of the subject firm in Denver, Colorado. The notice was published in the **Federal Register** on May 22, 1992 (57 FR 21829).

New information received from the company shows that several workers were separated in March 1991 from three other locations of the Anschutz Corporation. Accordingly, the Department is amending the revised certification to include workers at the Houston and Midland, Texas and the Oklahoma City, Oklahoma locations. A termination date of May 28, 1991 is established for the additional three locations since workers at these locations are covered under TA-W-27,360; TA-W-27,361 and TA-W-27,362 beginning on May 28, 1991.

The intent of the Department's certification is to include all workers of the Anschutz Corporation who were adversely affected by increased imports.

The amended notice applicable to TA-W-26,958 is hereby issued as follows:

"All workers of Anschutz Corporation, Denver, Colorado who became totally or partially separated from employment on or after February 1, 1991 and all workers of Anschutz Corporation, Houston, Texas;

Midland, Texas and Oklahoma City, Oklahoma who became totally or partially separated from employment on or after February 1, 1991 and before May 28, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 14th day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-23361 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,238]

Bates Fabrics, Inc., Lewiston, ME; Notice of Revised Determination on Reconsideration

On August 31, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The notice was published in the **Federal Register** on July 28, 1992 (57 FR 33367).

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met.

On reconsideration, the Department noted a late customer survey response from a major customer with increasing import purchases of bedspread while decreasing its purchases from Bates. Other findings on reconsideration show several customers of Bates increasing their indirect imports of bedspreads and reducing purchases from Bates in 1991 compared to 1990.

U.S. imports of bedspreads increased absolutely in 1991 compared to 1990 an in the twelve months ending in February 1992 compared to the same 12 month period ending in February 1991.

Sales and production of bedspreads at Bates decreased in 1991 compared to 1990 and in the first quarter of 1992 compared to the first quarter in 1991. Substantial worker separations occurred in 1991 and in 1992.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that workers at Bates Fabrics, Inc., in Lewiston, Maine were adversely affected by increased imports of articles that are like or directly competitive with the bedspreads produced at Bates Fabrics, Inc., in Lewiston, Maine. In accordance with the provisions of the Act, I make the following revised determination for workers of Bates Fabrics, Incorporated in Lewiston, Maine.

"All workers of Bates Fabrics, Incorporated in Lewiston, Maine who became totally or partially separated from employment on or after April 28, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 15th day of September 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 92-23363 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,418]

Tobin-Hamilton Company, Inc., Mansfield, MO; Notice of Affirmative Determination Regarding Application for Reconsideration

On September 2, 1992, one of the workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on August 7, 1992 and published in the **Federal Register** on August 28, 1992, (57 FR 39241).

Its claimed that the Department only investigated the transfer of production operations from Mansfield to overseas locations and never investigated whether the production and sales declines were the result of increased imports of children's shoes.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 11th day of September 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-23362 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Announcement of Proposed Noncompetitive Grant Awards

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of intent to award a noncompetitive grant.

SUMMARY: The Employment and Training Administration (ETA) announces its intent to award a noncompetitive grant to the Southern Governors' Association, of Washington, DC, for the provision of specialized services under the authority of the Job Training Partnership Act (JTPA). The Southern Governors' Association has unique qualifications to perform this type of activity and their unsolicitated proposal is unique and has outstanding merit.

DATES: It is anticipated that this grant award will be executed by October 15, 1992, and will be funded for twelve months. Submit comments by 4:45 p.m. (Eastern Time), on October 13, 1992.

ADDRESSES: Submit comments regarding this proposed assistance award to: U.S. Department of Labor, Employment and Training Administration, room C-4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Charlotte Adams: Reference FR-DAA-006.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces its intent to award a noncompetitive grant to the Southern Governors' Association to implement school-to-work demonstration projects in five (5) member states of the Association's jurisdiction, and to produce a workforce case studies video. Funds for this activity are authorized by the Job Training Partnership Act, as amended, title IV—Federally administered Programs. The proposed funding is approximately $135,000 for twelve months.

Signed at Washington, DC on September 18, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92-23366 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Notice of Approval

1. *Background*—Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review

and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 5, 1973, notice was published in the Federal Register (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated May 26, June 29, and July 20, 1992, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.1030, pertaining to the Occupational Exposure to Bloodborne Pathogens Standard for General Industry as published in the Federal Register of December 6, 1991 (56 FR 64174); (2) 29 CFR 1910.1025, pertaining to amendments to the Occupational Exposure to Lead Standard for General Industry as published in the Federal Register of January 30, 1990 (55 FR 3166); and (3) 29 CFR 1910.119, pertaining to the Process Safety Management of Highly Hazardous Chemicals, Explosives, and Blasting Agents as published in the Federal Register of February 24, 1992 (57 FR 6403). These standards are contained in COMAR 09.12.31. Maryland occupational safety and health standards were promulgated after a public hearing March 31, February 5, and May 5, 1992, respectively. These standards became effective on May 31, June 8, and July 20, 1992, respectively.

2. *Decision*—Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. *Location of the Supplements for Inspection and Copying*—A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, U.S. Department of Labor, room N3700, 3rd Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standard is identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 25, 1992.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania, this 27th day of August 1992.

Richard Soltan,

Deputy Regional Administrator.

[FR Doc. 92-23364 Filed 9-24-92; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-51]

NASA Advisory Council; Minority Business Resource Advisory Committee; Establishment.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of establishment.

SUMMARY: Pursuant to section 14(b)(1) of the Federal Advisory Committee Act, Public Law 92-463, and after consultation with the Committee Management Secretariat, General Services Administration, the National Aeronautics and Space Administration has determined that establishment of the NASA Advisory Council Minority Business Resource Advisory Committee is in the public interest in connection with the performance of duties imposed upon NASA by law.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia K. Kraemer, National Aeronautics and Space Administration, Code ADA-2, Washington, DC 20546 (202/453-8766).

SUPPLEMENTARY INFORMATION: The function of the Minority Business Resource Advisory Committee is (1) to advise the NASA Administrator on the special needs and opportunities presented by the Nation's minority businesses, and (2) to assist NASA in identifying eligible minority businesses to participate in NASA procurement in support of the Nation's civil aeronautics and space research and development programs.

Dated: September 21, 1992.

John W. Gaff,

Advisory Committee Management Officer.

[FR Doc. 92-23293 Filed 9-24-92; 8:45 am]

BILLING CODE 7501-01-M

[Notice 92-52]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting on Human Factors

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics Advisory Committee meeting on human factors.

DATES: October 28, 1992, 9 a.m. to 5 p.m.; and October 29, 1992, 8:30 a.m. to 4:30 p.m.; and October 30, 1992, 8 a.m. to 11:30 a.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, room 100, Building 262, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. C. Thomas Snyder, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604-5066.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows.

—NASA Aeronautics Program Overview
—NASA Human Factors Program Review

Dated: September 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-23351 Filed 9-24-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-53]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting on Propulsion

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics Advisory Committee meeting on propulsion.

DATES: October 22, 1992, 9 a.m. to 5 p.m.; and October 23, 1992, 8:30 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, Lewis Research Center, room 100, Building 86, 21000 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Neal Saunders, National Aeronautics and Space Administration, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135, 216/433–2965.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA Aeronautics Program Overview
—Aeropropulsion Program Review

Dated: September 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–23352 Filed 9–24–92; 8:45 am]

BILLING CODE 7510–01–M

[Notice 92–49]

NASA Advisory Council; Space Science and Applications Advisory Committee; Space Station Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Space Station Science and Applications Advisory Subcommittee.

DATES: October 13, 1992, 8 a.m. to 10 p.m.; October 14, 1992, 7:30 a.m. to 9:30 p.m.; October 15, 1992, 8 a.m. to 10 p.m.; and October 16, 1992, 8 a.m. to 12:30 p.m.

ADDRESSES: Boeing Trade Zone Center, 922 James Record Road, Huntsville, AL 35824; and Holiday Inn, 9035 Highway 20 West, Madison, AL 35758.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond M. Reeves, Code SM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1570).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Program Update
—Data Systems and Communications
—Operations and Utilization
—International Aspects
—Attached Payloads
—User Interactions

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 18, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–23291 Filed 9–24–92; 8:45 am]

BILLING CODE 7510–01–M

[Notice 92–50]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting on Power and Propulsion

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Space Systems and Technology Advisory Committee meeting on power and propulsion.

DATES: October 20, 1992, 8 a.m. to 5 p.m.; October 21, 1992, 8:30 a.m. to 5:30 p.m.; and October 22, 1992, 8:30 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Lewis Research Center, Development Engineering Building Auditorium, Building 500, 21000 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Sal Grisaffe, National Aeronautics and Space Administration, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135, 216/433–3193.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA Overview & Lewis Research Center Overview
—Power Program Review
—Propulsion Program Review

Dated: September 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–23292 Filed 9–24–92; 8:45 am]

BILLING CODE 7510–01–M

[Notice 92–54]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting on Human and Machine Operations

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Space Systems and Technology Advisory Committee meeting on human and machine operations.

DATES: October 21, 1992, 8 a.m. to 5 p.m.; October 22, 1992, 8 a.m. to 5 p.m.; and October 23, 1992, 8 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Committee Room, Building N–200, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Gross, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604–6547.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA Mission and Technology Needs
—Integrated Technology Plan
—Human and Machine Operations Program Element Review.

Dated: September 21, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–23353 Filed 9–24–92; 8:45 am]

BILLING CODE 7510–01–M

POSTAL RATE COMMISSION

[Docket No. MC92-1; Order No. 934]

Second-Class Eligibility; Notice and Order Provisionally Establishing Proceeding for Consideration of Modifying Format Requirement for Second Class and Requesting Comments

September 21, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc, III; H. Edward Quick, Jr.

Currently one of the requirements for use of second class, the mail class for newspapers and other periodical publications, is that the mail pieces be made of printed sheets. Domestic Mail Classification Schedule (DMCS) section 200.0102. With the new methods of disseminating information, such as diskettes used in computers, the Commission believes it might be useful to review the requirement of printed sheets to determine whether modification is appropriate, and what form any change should take.

Recently a joint study by the Postal Service and mailers recommended that second-class eligibility be extended to other publication formats, while maintaining the integrity of the class.[1] The purpose of second class can be found in section 200.0104 of the DMCS: "Second-class matter must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry." With the changes in technology which have taken place, and are expected to continue, it is possible that formats other than printed paper could be useful additions to second class and further the goals for which that class exists.

There are many questions which must be answered before the Commission could recommend a classification change to include new publication formats.[2] Therefore, the Commission is establishing Docket No. MC92-1 provisionally and requesting that interested parties comment on the appropriateness of modifying the "printed sheets" requirement. In addition to comments on the desirability of considering such a change, interested parties are encouraged to provide as much information as possible about existing nonpaper publications as well as projections for the future.

Many questions will have to be answered if the Commission decides to go forward with the consideration of modifying the requirement of printed sheets. The possible effect on costs, and subsequently, rates, is a major question. Whether these types of publications are compatible with the existing class, and how any incompatibility should be handled, is another major concern. Existing second-class rate and classification schedules are based on mail pieces which have characteristics varying greatly from formats which do not meet the printed sheets requirement. It would be most helpful if commenters review the current second-class rate and classification schedules. Following that review, the inquiry would be aided by parties' comments on whether any of the rate elements in the rate schedule and the other existing DMCS provisions should be inapplicable to nonpaper publications, or whether further modifications (in addition to eliminating the printed sheets requirement) would be more appropriate.

The Commission will review all comments received and make a decision on whether to move forward with a classification case concerning this issue. However, any evidence the Commission ultimately relies on in issuing a recommendation must meet the evidentiary standards found in the Commission's rules of practice and procedure.

Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, is appointed to represent the interests of the general public in this inquiry, and any section 3624 proceedings therein. In this capacity, he will direct the activities of Commission personnel assigned to assist him and, at an appropriate time, supply their names for the record. Mr. Gold and the assigned personnel will participate in, or offer advice on, any Commission decision in this inquiry, only as described in 39 CFR 3001.8.

We are setting October 21, 1992, as the date for their submission. The Secretary of the Commission will maintain a service list for this inquiry. Parties may have their names included on the list by writing to the Secretary.

The Commission Orders

(A) Comments on consideration of modifying the requirement that second-class matter be formed of printed sheets are due on October 21, 1992. They should be sent to the Secretary, Postal Rate Commission, 1333 H Street, NW., suite 300, Washington, DC 20268-0001.

(B) Stephen A. Gold is appointed Officer of the Commission to represent the interests of the general public in this inquiry and any further section 3624 proceeding on this matter.

(C) The Secretary of the Commission will maintain a service list of those parties who request their names be included.

(D) The Secretary of the Commission will have this Notice and Order published in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 92-23287 Filed 9-24-92; 8:45 am]

BILLING CODE 7710-FW-M

[1] In August 1992, the Competitive Services Task Force, made up of industry and postal representatives, issued a report with its recommendations of improvements for postal offerings. This recommendation is found on page 32.

[2] Under the statute the Commission can only recommend classification changes in cases which it initiates. Any rate associated with a new classification must be proposed by the Postal Service. 39 U.S.C. 3623.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31204; File No. SR-NASD-92-34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Assessments and Fees on Members

September 18, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1992,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing a rule change to amend Schedule A to the NASD's By-Laws to modify the NASD's branch office fees. Below is the text of the proposed rule change. Proposed new

[1] The NASD originally submitted this filing on August 20, 1992. On September 4, 1992, the NASD filed Amendment No. 1 to SR-NASD-92-34. The amendment replaced the text of the proposed rule change originally filed, and modified the discussion of the proposed rule change to conform to the changes in the text.

language is italicized; proposed deletions are in brackets.

Schedule A

Section 2—Fees

(a) Each member shall be assessed a fee of $50 for *the registration of* each [registered] branch office, as defined in the By-Laws[.]. *Each member shall be assessed an annual fee for each branch office* [which is open during any part of the Association's fiscal year.] *in an amount equal to the lesser of (1) $50 per registered branch, or (2) the product of $50 and the number of registered representatives and registered principals associated with the member at the end of Association's fiscal year.*

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the SEC, the Association included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD currently requires its members to pay an annual fee for each registered branch office pursuant to Schedule A, Section 2 to the By-Laws. The fee is imposed for each location of a member that meets the definition of "branch office," as defined in the By Laws,[2] and which is registered with the Association. The NASD is proposing to modify the language of the provision to clarify that (1) a fee is imposed upon the registration of each branch office; (2) each branch office is also subject to an annual fee; and (3) the annual fee is calculated at the end of each year based on the registered branch offices and registered principals at that time.

Because of inequities that could result from the imposition of branch office fees on a member that has a disproportionately large number of branch office locations relative to its size and number of registered persons, the NASD has determined that the branch office fee structure should be revised to eliminate this inequity. The NASD is therefore proposing to amend section 2 of Schedule A to impose an initial fee of $50 on the registration of a branch office and an annual charge equal to the lesser of $50 per branch or the product of $50 and the total number of the member's registered representatives and registered principals. Thus, where the number of registered branch offices of a member exceeds the combined number of that member's registered representatives and registered principals, the member would not be assessed branch office and renewal fees for the excess of branch offices over the amount of representative and principal registrations. Regardless of whether the annual fee is based on the number of the member's registered representatives and principals, members are still obligated to register each location that meets the definition of a branch office.

The NASD believes that the proposed rule change is consistent with section 15A(b)(5) of the Act, which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges among members, in that it eliminates inequities in the imposition of branch office fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act, and subparagraph (e) of Rule 19b–4 thereunder, in that it constitutes a due, fee, or other charge. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by October 16, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–23283 Filed 9–24–92; 8:45 am]

BILLING CODE 8010–01–M

[2] *See NASD Securities Dealers Manual*, Rules of Fair Practice, Art. III, Sec. 27, CCH ¶ 2177.

DEPARTMENT OF STATE

[Public Notice 1705]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Ship Design and Equipment and Working Group on Fire Protection; Meetings

Fire Protection Meeting

The U.S. Safety of Life at Sea Working Group on Fire Protection will conduct an open meeting on October 14, 1992 at 9:30 a.m. in room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. The purpose of the meeting will be to debrief on the discussions that took place at the 37th Session of the International Maritime Organization (IMO) Subcommittee on Fire Protection (FP), held on May 18–22, 1992.

The meeting will focus on the fire safety of commercial vessels. Specific discussion areas include: code of safety for dynamically supported craft, fire casualty records, fire-fighting systems, fire test procedures, guidelines for performance and testing criteria and surveys of foam concentrates, provisions for helicopter facilities on ships, phasing out of halons, automatic sprinkler systems, passenger vessel safety, preventing and mitigating marine

pollution incidents, role of the human element in maritime casualties, open top container ships, and smoke control research.

Members of the public may attend up to the seating capacity of the room. For further information regarding the meeting of the SOLAS Working Group on Fire Protection contact Mr. Jack Booth at (202) 267–2997.

Design and Equipment Meeting

The Working Group on Ship Design and Equipment of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on October 14, 1992 at 1 p.m. in room 2415 at United States Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of the meeting will be to prepare for the 36th Session of the International Maritime Organization (IMO) Subcommittee on Ship Design and Equipment (DE) scheduled for February 22 to 26, 1993. Items of discussion will include the following: Use on board ships of ozone-depleting substances other than halons; guidelines on standard calculations for anchor positioning systems for mobile offshore drilling units (MODUs); guidelines for dynamic positioning systems for MODUs and ships engaged in similar operations; maneuverability of ships and maneuvering standards; helicopter facilities offshore and on ships; extension of the code on alarms and indicators; ventilation of vehicle decks during loading and unloading; consideration of the introduction of the Harmonized System of Surveys and certification into the MODU Code; revision of the Code of Safety for Dynamically Supported Craft; fuel line failures; reduction of secondary sources of pollution by minimizing the source of general flooding and by improving control of equipment vital to safe operation of the vessel; development of safety standards for combined pusher tug-barges; structural integrity of tankers and bulk carriers; review of existing ships' safety standards; requirements for ships intended for operation in polar waters; guidelines for standardization of the layout of essential instrumentation on the bridge and in the engine room; feasibility study on voyage data recorders; coating requirements for ballast tanks; revision of towing requirements—resolution A.535(XIII); safety of passenger submersibles; introduction of a standard for ship construction into SOLAS 1974; and, the role of the human element in maritime casualties.

The IMO DE Subcommittee works to develop international agreements, guidelines, and standards for machinery, equipment, and systems as these relate to the marine industry. In most cases, these international agreements, guidelines, and standards form the basis for national standards/regulations and class society rules. The U.S. SOLAS Working Group supports the U.S. Representative to the IMO DE Subcommittee in developing the U.S. position on those issues raised at the IMO DE Subcommittee meetings. Because of the impact on domestic regulations through development of these international guidelines, standards, and regulations, the U.S. SOLAS Working Group serves as an excellent forum for the U.S. maritime industry to express their ideas. All shipping companies, shipyards, design firms, naval architects, marine engineers, and consultants are encouraged to send representatives to participate in the development of U.S. positions on those issues affecting your maritime industry and remain abreast of all activities ongoing within IMO DE. Since these meetings are open to the public, anyone may attend up to the seating capacity of the room.

For further information on the DE meeting contact Lieutenant Commander Roger Dent at (202) 267–2206, U.S. Coast Guard Headquarters (G–MTH–2), 2100 Second Street SW., Washington, DC 20593–0001.

Dated: September 22, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92–23328 Filed 9–24–92; 8:45 am]

BILLING CODE 4710–07–M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Regional Advisory Board Meetings, Regions 1–6

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Meetings notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby published for the Series 10 Regional Advisory Board meetings for Regions 1 through 6. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. October 14, 9 a.m. to 12:30 p.m., Newark, New Jersey, Region 1 Advisory Board.

2. October 27, 9 a.m. to 12:30 p.m., Fort Worth, Texas, Region 4 Advisory Board.

3. October 29, 9 a.m. to 12:30 p.m., Kansas City, Missouri, Region 2 Advisory Board.

4. November 6, 9 a.m. to 12:30 p.m., Albuquerque, New Mexico, Region 5 Advisory Board.

5. November 10, 9 a.m. to 12:30 p.m., Los Angeles, California, Region 6 Advisory Board.

6. November 18, 9 a.m. to 12:30 p.m., St. Paul, Minnesota, Region 3 Advisory Board.

ADDRESSES: The meetings will be held at the following locations:

1. Newark, New Jersey—Hilton Gateway, Ballroom, Lobby Level, Raymond Boulevard & Gateway Center.

2. Fort Worth, Texas—The Worthington Hotel, Great Lakes Room, Mezzanine Level, 200 Main Street.

3. Kansas City, Missouri—Allis Plaza Hotel, Basie Ballroom, Second Floor, 200 West Twelfth.

4. Albuquerque, New Mexico—Albuquerque Technical Vocational Institute, Smith Brasher Hall, Room 100, 717 University Boulevard, S.E.

5. Los Angeles, California—The Westin Bonaventure, Santa Barbara Room, Lobby Level, 404 South Figueroa Street.

6. St. Paul, Minnesota—Minnesota World Trade Center, Studio Theater, Third Level, 400 World Trade Center.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183, 382–383, directed the Oversight Board to establish one national advisory board and six regional advisory boards.

PURPOSE: The Regional Advisory Boards provide the Resolution Trust Corporation (RTC) with recommendations on the policies and programs for the sale of RTC owned real property assets.

AGENDA: Topics to be addressed at the six regional meetings include: net recoveries by asset type and sales method, appraisal policies, SAMDA program incentives, bulk sales, RTC computer systems, environmentally significant property disposition, use of multiple investor funds for land disposition and affordable housing disposition performance reports. A detailed agenda will be available at the meeting.

STATEMENTS: Interested persons may submit to an advisory board written statements, data, information, or views

on the issues pending before the board prior to or at the meeting. The meeting will include a public forum for oral comments. Oral comments will be limited to approximately five minutes. Interested persons may sign up for the public forum at the meeting. All meetings are open to the public. Seating is available on a first come first served basis.

Dated: September 22, 1992.

Jill Nevius,

Committee Management Officer, Office of Advisory Board Affairs.

[FR Doc. 92-23354 Filed 9-24-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Redetermination of Fitness of Air Alpha, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Redetermination—Order 92-9-39, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Air Alpha, Inc., is fit, willing, and able to resume operations as a commuter air carrier.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 5, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2343.

Dated: September 18, 1992.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-23280 Filed 9-24-92; 8:45 am]

BILLING CODE 4910-62-M

[Notice No. 92-16]

Senior Executive Service Performance Review Boards (PRB) Membership

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards (PRB) established by DOT under the Civil Service Reform Act.

FOR FURTHER INFORMATION CONTACT: Glenda M. Tate, Director of Personnel, and Executive Secretary, DOT Executive Resources Board, (202) 366-4088.

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 4312 requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, 5 U.S.C. 4314(c) requires each agency to establish one or more PRBs, the function of which is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRBs.

Issued in Washington, DC, on September 18, 1992.

Jon H. Seymour,

Assistant Secretary for Administration.

Department of Transportation

Senior Executive Service Performance Review Boards

Office of the Secretary

Paul L. Gretch, Director, Office of International Aviation, Office of the Secretary

James H. New II, Director, Office of Safety Program Review, Office of the Secretary

Robert P. Thurber, Deputy Director, Office of Transportation, Regulatory Affairs, Office of the Secretary

Roberta D. Gabel, Assistant General Counsel for Environmental Civil Rights and General Law, Office of the Secretary

Donald H. Horn, Assistant General Counsel for International Law, Office of the Secretary

Samuel Podberesky, Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the Secretary

Penny Eastman, Deputy Administrator (Inland Waterways and Great Lakes), Maritime Administration

Earnest Hawkins, Associate Administrator for Administration, Maritime Administration

Steven Diaz, Chief Counsel, Federal Transit Administration

Eileen Powell, Deputy Director, Office of Financial Management, Office of the Secretary.

United States Coast Guard

RADM James M. Loy, Chief, Office of Personnel & Training, United States Coast Guard

RADM David E. Ciancaglini, Chief, Office of Command Control and Communications, United States Coast Guard

RADM John W. Lockwood, Chief, Office of Readiness and Reserve, United States Coast Guard

RADM Kent H. Williams, Chief, Office of Acquisition, United States Coast Guard

Diana L. Zeidel, Deputy Associate Administrator for Administration, Federal Highway Administration

William T. Hudson, Director, Office of Civil Rights, Office of the Secretary

John P. Eicher, Director, Office of Program Management Support, Federal Highway Administration

Linda M. Higgins, Director, Office of Acquisition and Grant Management, Office of the Secretary

Ann C. Agnew, Deputy Assistant Secretary for Policy and International Affairs, Office of the Secretary

Federal Aviation Administration

Arnold Aquilano, Associate Administrator for Airway Facilities, Federal Aviation Administration

Joan W. Bauerlein, Director, Office of International Aviation, Federal Aviation Administration

Theodore R. Beckloff, Regional Administrator, Southern Region, Federal Aviation Administration

Dorothy H. Berry, Deputy Assistant Administrator for Human Resource Management, Federal Aviation Administration

Carolyn C. Blum, Associate Administrator for Contracting and Quality Assurance, Federal Aviation Administration

Anthony J. Broderick, Jr., Associate Administrator for Regulation and Certification, Federal Aviation Administration

Garland P. Castleberry, Associate Administrator for Aviation Standards, Federal Aviation Administration

Clyde M. DeHart, Jr., Regional Administrator, Southwest Region, Federal Aviation Administration

Kay Frances Dolan, Director, Office of Personnel, Federal Aviation Administration

Arlene I. Feldman, Regional Administrator, New England Region, Federal Aviation Administration

Darlene Freeman, Associate Administrator for Aviation Safety, Federal Aviation Administration

Margaret M. Gilligan, Chief of Staff, Federal Aviation Administration

Theron A. Gray, Deputy Assistant Administrator for Information Technology, Federal Aviation Administration

Leonard L. Griggs, Assistant Administrator for Airports, Federal Aviation Administration

James E. Haight, Regional Administrator, Central Region, Federal Aviation Administration

Charles H. Huettner, Deputy Associate Administrator for Aviation Safety, Federal Aviation Administration

Frederick M. Isaac, Regional Administrator, Northwest Mountain Region, Federal Aviation Administration

Ruth A. Leverenz, Director, Office of Budget, Federal Aviation Administration

Homer C. McClure, Associate Administrator, Aeronautical Center, Federal Aviation Administration

Herbert R. McLure, Assistant Administrator for Human Resource Management, Federal Aviation Administration

Michael C. Moffet, Assistant Administrator for Policy, Planning, and International Aviation, Federal Aviation Administration

Hugh L. O'Neill, Assistant Administrator for Public Affairs, Federal Aviation Administration

Daniel J. Peterson, Regional Administrator, Eastern Region, Federal Aviation Administration

Edward J. Phillips, Regional Administrator, Great Lakes Region, Federal Aviation Administration

William H. Pollard, Associate Administrator for Air Traffic, Federal Aviation Administration

Martin T. Pozesky, Associate Administrator for System Engineering and Development, Federal Aviation Administration

Kenneth P. Quinn, Chief Counsel, Federal Aviation Administration

Stanley Rivers, Director, Systems Maintenance Service, Federal Aviation Administration

Ann H. Rosenwald, Director, Office of Human Resource Development, Federal Aviation Administration

Raymond A. Salazar, Manager, FAA Center for Management, Federal Aviation Administration

Carl B. Schellenburg, Regional Administrator, Western-Pacific Region, Federal Aviation Administration

Jacqueline L. Smith, Regional Administrator, Alaskan Region, Federal Aviation Administration

Orlo K. Steele, Assistant Administrator for Civil Aviation Security, Federal Aviation Administration

Quentin S. Taylor, Deputy Associate Administrator for Airports, Federal Aviation Administration

John E. Turner, Associate Administrator for National Airspace System Development, Federal Aviation Administration

Leon C. Watkins, Assistant Administrator for Civil Rights, Federal Aviation Administration

Winifred Woodward, Deputy Regional Administrator, Southern Region, Federal Aviation Administration

Brenda L. Yager, Assistant Administrator for Governmental and Industry Affairs, Federal Aviation Administration

Jane H. Bachner, Director, Office of Economic Analysis, Federal Railroad Administration

Nancy M. Butler, Director of Communications and External Affairs, Office of the Administrator, Federal Transit Administration

Nan K. Harlee, Associate Administrator for Marketing, Maritime Administration

Earnest Hawkins, Associate Administrator for Administration, Maritime Administration

William T. Hudson, Director, Office of Civil Rights, Office of the Secretary

Federal Highway Administration

George S. Moore, Jr., Associate Administrator for Administration, Federal Highway Administration

Anthony R. Kane, Associate Administrator for Program Development, Federal Highway Administration

Wesley S. Mendenhall, Jr., Regional Administrator, Fort Worth, Texas, Federal Highway Administration

Steven E. Wermcrantz, Chief Counsel, Federal Highway Administration

Cynthia C. Rand, Director, Office of Information Resource Management, Office of the Secretary

Rose A. McMurray, Associate Administrator for Management and Administration, Research and Special Program Administration

William T. Hudson, Director, Office of Civil Rights, Office of the Secretary

Federal Railroad Administration

S. Mark Lindsey, Chief Counsel, Federal Railroad Administration

Raymond J. Rogers, Associate Administrator for Administration, Federal Railroad Administration

Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration

James T. McQueen, Associate Administrator for Railroad Development, Federal Railroad Administration

William J. Watt, Associate Administrator for Policy, Federal Railroad Administration

Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary

William T. Hudson, Director, Office of Civil Rights, Office of the Secretary

National Highway Traffic Safety Administration

Barry I. Felrice, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration

Adele L. Derby, Associate Administrator for Regional Operations, National Highway Traffic Safety Administration

William A. Boehly, Associate Administrator for Enforcement, National Highway Traffic Safety Administration

P. Jackson Rice, Chief Counsel, National Highway Traffic Safety Administration

Alicia Casanova, Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary

Federal Transit Administration

Nancy M. Butler, Director of Communications and External Affairs, Federal Transit Administration

Earnest Hawkins, Associate Administrator for Administration, Maritime Administration

Kevin E. Heanue, Director, Office of Environment and Planning, Federal Highway Administration

Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary

Rose A. McMurray, Associate Administrator for Management and Administration, Research and Special Programs Administration

Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration

Thomas Hunt, Associate Administrator for Administration, Federal Transit Administration

Maritime Administration

Reginald A. Bourdon, Associate Administrator for Policy and International Affairs, Maritime Administration

Richard E. Bowman, Associate Administrator for Maritime Aids, Maritime Administration

Harlan T. Haller, Associate Administrator for Shipbuilding and Ship Operations, Maritime Administration

Earnest Hawkins, Associate Administrator for Administration, Maritime Administration

Nan K. Harlee, Associate Administrator for Marketing, Maritime Administration

W. Patrick Morris, Chief Counsel, Maritime Administration

William T. Hudson, Director, Office of Civil Rights, Office of the Secretary

Research and Special Programs Administration

Ann C. Agnew, Deputy Assistant Secretary for Policy, and International Affairs, Office of the Secretary

Katherine E. Collins, Director, Office of Budget, Office of the Secretary

Philip S. Coonley, Director, Office of Administration, Volpe National Transportation Systems Center, Research and Special Programs Administration

Penny Eastman, Deputy Administrator for Inland Waterways and Great Lakes, Maritime Administration

Franz K. Gimmler, Deputy Associate Administrator for Safety, Federal Transit Administration

Robert A. Knisely, Special Assistant and Director for Drug, Enforcement and Program Compliance, Office of the Secretary

Arnold L. Levine, Director, Office of International Transportation and Trade, Office of the Secretary

Rose A. McMurray, Associate Administrator for Management and Administration, Research and Special Programs Administration

Patricia D. Parrish, Director, Office of Management Planning, Office of the Secretary

P. Jackson Rice, Chief Counsel, National Highway Traffic Safety Administration

Alan I. Roberts, Associate Administrator for Hazardous Materials Transportation, Research and Special Programs Administration

George W. Tenley, Jr., Associate Administrator for Pipeline Safety, Research and Special Programs Administration

Frank F.C. Tung, Deputy Director, Volpe National, Transportation System Center, Research and Special Programs Administration

Office of the Inspector General

Melissa J. Allen, Deputy Assistant Secretary for Administration, Office of the Secretary

Chris Greer, Assistant Inspector General for Audits, Department of Housing and Urban Development

Edward Hefferon, Deputy Inspector General, General Services Administration

Jacquelyn K. Howard, Assistant Inspector General for Management and Policy, Department of Housing and Urban Development

Steve McNamara, Acting Assistant Inspector General for Auditing, Department of Education

Everett Mosely, Deputy Assistant Inspector General for Auditing, Department of Agriculture

Thomas Roslewicz, Deputy Inspector General for Audit Services, Department of Health and Human Services

Walter R. Somerville, Director, Office of Civil Rights, United States Coast Guard

Michael Zimmerman, Deputy Inspector General, Department of Commerce

Thomas R. Hunt, Associate Administrator for Administration, Federal Transit Administration

Earnes Hawkins, Associate Administration for Administrator, Maritime Administration.

[FR Doc. 92-23279 Filed 9-24-92; 8:45 am]
BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement: Missoula & Ravalli Counties, MT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Missoula and Ravalli Counties, Montana.

FOR FURTHER INFORMATION CONTACT: Dale Paulson, Environmental Coordinator, Federal Highway Administration, 301 South Park, Drawer 10056, Helena, MT 59626-0056; Telephone: (406) 449-5310; or Mr. Doug Morgan, Consultant Design Engineer, Montana Department of Transportation, 2701 Prospect Street, Helena, MT 59620; Telephone: (406) 444-6251.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Montana Department of Transportation will prepare an Environmental Impact Statement (EIS) on a proposal to develop a project or projects to improve travel between Hamilton and Lolo, Montana. The environmental studies will focus on US 93 from just north of Hamilton to its intersection with US 12 in Lolo, a distance of about 35 miles.

In addition to studying ways to improve the highway in response to traffic congestion and safety issues, alternatives to the single occupant vehicle such as commuter rail lines, bus service and van pools will be studied. Strategies to manage demand by encouraging and facilitating use of the corridor at times other than when use and congestion is the highest will be considered. The no action alternative will also be considered.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of formal scoping meetings will be held in the project area beginning in late 1992. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and/or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on: September 17, 1992.

Hank D. Honeywell,

Division Administrator, Montana Division, Helena.

[FR Doc. 92-23338 Filed 9-24-92; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Toyota

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants the petition by Toyota Motor Corporate Services of North America, Inc. (Toyota) for exemption from the parts marking requirements of the vehicle theft prevention standard for a high theft car line (whose nameplate is confidential), pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with the 1993 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION: On April 29, 1992, the agency received a letter from Toyota Motor Corporate Services of North America, Inc. (Toyota) requesting an exemption from the theft prevention standard for a new car line to be introduced in Model year 1993. The letter was submitted pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* Toyota requested an exemption from parts marking based on the installation of a theft deterrent system as standard equipment for the car line that is the subject of this notice. In a letter dated May 11, 1992, the agency granted Toyota's requests for confidential treatment of information, including the nameplate of the new car line, in its submission.

Upon review of Toyota's submission, the agency determined that the submission did not include certain information concerning reliability and durability testing of the antitheft system. (See 49 CFR 543.6(a)(3)(v).) The agency informed Toyota of the omission, and received the required information on June 15, 1992. The agency determined that, as of June 15, 1992, the information submitted by Toyota fulfilled the specific content requirements of § 543.6.

In its petition, Toyota provided a description of the identity, design, and location of the components of the antitheft device proposed for the car line that is the subject of this notice, inlcuding diagrams of the components and their location in the vehicle. Toyota stated that the proposed antitheft system incorporates an alarm function that monitors the vehicle's doors, hood, and trunk key cylinder, and prevents unauthorized operation of the engine.

Toyota stated that the proposed antitheft system is automatically activated by the normal locking of the vehicle door. In order to arm the system, the key must be removed from the ignition switch; all of the doors, trunk lid, and hood lid, must be closed; and the driver's or front passenger's door must be locked with or without the ignition key. Locking any door ensures that all doors, the hood, and trunk are locked.

If the system is armed and unauthorized entry is attempted, the antitheft system will be triggered, setting off audible and visual signals to attract attention. Additionally, the antitheft system will activate the starter-interrupt relay, preventing the starting of the engine from the ignition switch. Toyota stated that to prevent defeat of the antitheft system, all system components are in inaccessible locations. Toyota described further measures, including mechanical and body designs to deter forcible entrance into and movement of the vehicle, to prevent unauthorized operation of its new car line.

Toyota addressed the reliability and durability of its proposed antitheft system by describing redundant features in the system and by explaining the various quality assurance tests that were conducted on the system.

In discussing why it believes the antitheft system will be effective in reducing and deterring motor vehicle theft, Toyota stated that existing Toyota car lines have an antitheft system similar to that proposed for the car line that is the subject of this notice. Toyota stated that the theft rate for the existing Toyota car lines decreased for the first year that the antitheft system was included as standard equipment, and that its theft rates have remained lower than Toyota models that do not include the antitheft system. Toyota asserted that these theft data indicate the effectiveness of the antitheft system, and therefore, the system that is the subject of the petition is likely to be as effective as parts marking.

NHTSA believes that there is substantial evidence indicating that the antitheft system to be installed as standard equipment in the Toyota car line that is the subject of this notice, will likely be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the theft prevention standard (49 CFR part 541). This determination is based on the information Toyota submitted with its petition and on other available information. The agency believes that the device will provide all of the types of performance listed in § 543.6(a)(3): Promoting activation, preventing defeat or circumventing of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants, and ensuring the reliability and durability of the device.

As required by section 605(b) of the statute and 49 CFR § 543.6(a)(4), the agency also finds that Toyota has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Toyota provided on its device. This information included a description of reliability and functional tests conducted by Toyota for the antitheft system and its components.

For the foregoing reasons, the agency hereby exempts the Toyota car line that is the subject to this notice, in whole from the requirements of 49 CFR part 541.

If Toyota decides not to use the exemption for the car line that is the subject of this notice, it should formally notify the agency. If such a decision is made, that car line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs continue to make it difficult to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly invites such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if Toyota wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore,

NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis* then it should consult the agency before preparing and submitting a petition to modify.

Authority: 15 U.S.C. 2025; delegation of authority at 49 CFR 1.50.

Issued on: September 22, 1992.

Marion C. Blakey,

Acting Administrator.

[FR Doc. 92-23316 Filed 9-24-92; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

[Docket No. PDA-5(R)]

Application by Chemical Waste Transportation Institute for a Preemption Determination as to the Uniform Hazardous Waste Manifest Promulgated by the Illinois Environmental Protection Agency

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public notice extending rebuttal comment period.

SUMMARY: The Chemical Waste Transportation Institute (CWTI) has applied for an administrative determination whether the Uniform Hazardous Waste Manifest promulgated by the Illinois Environmental Protection Agency (IEPA) is preempted by the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations issued under the HMTA. This notice clarifies that, to the extent that they remain relevant and appropriate, all comments previously submitted in RSPA's Docket No. IRA-51 will be considered with respect to CWTI's application. The period for rebuttal comments is being extended to assure all interested parties the opportunity to respond to comments previously submitted in Docket No. IRA-51.

DATES: Rebuttal comments received on or before October 30, 1992, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments already received (including any comments submitted in Docket No. IRA-51) and may not discuss new issues.

ADDRESSES: The application, CWTI's petition for an inconsistency ruling, comments on the petition in Docket No. IRA-51, and any comments submitted on the present application may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8421, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590-0001 (Tel. No. 202-366-4453). Rebuttal comments on the application may be submitted to the Docket Unit at the above address, and should include the Docket Number (PDA-5(R)). Three copies should be submitted. In addition, a copy of each rebuttal comment must also be sent to (a) Mr. Kevin Connors, Chairman, Chemical Waste Transportation Institute, 1730 Rhode Island Avenue, NW., suite 1000, Washington, DC 20036, and (b) Mr. William C. Child, Chief, Bureau of Land, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, Illinois 62796-9276. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. Connors and Child at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001 (Tel. No. 202-366-4400).

SUPPLEMENTARY INFORMATION: CWTI's application for a preemption determination is reproduced (without its attachments) as Appendix A to the July 21, 1992 Public Notice and Invitation to Comment, 57 FR 32360. In that document, CWTI briefly summarized the background of its present application including: (a) Its April 12, 1990 petition for an inconsistency ruling, assigned Docket No. IRA-51, (b) the subsequent change in the HMTA's preemption provisions by the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101-615), and (c) the fact that, within the past year, "IEPA has voluntarily addressed one of the concerns raised in the April 12th [1990] petition." 57 FR at 32361.

In response to a telephone inquiry, RSPA has advised IEPA that the comments previously submitted in Docket No. IRA-51 are a part of, and will be considered in connection with, the present proceeding. On that basis, IEPA has stated that it "reaffirms its previous comments."

To assure interested parties the opportunity to respond to all comments which are relevant and appropriate to the issues raised in CWTI's application, including those comments submitted by IEPA and others in Docket No. IRA-51, RSPA is providing public notice of its inclusion of those previously submitted comments in the docket of this proceeding (PDA-5(R)), and it is extending the period for rebuttal comments.

Rebuttal comments may discuss only those issues raised in comments already received (including any comments submitted in Docket No. IRA-51) and may not discuss new issues. As stated in the July 21, 1992 Notice, rebuttal comments on whether the IEPA Uniform Hazardous Waste Manifest is preempted by the HMTA should address (1) the "substantively the same," "dual compliance," and "obstacle" tests described in that Notice, and (2) whether the IEPA Uniform Hazardous Waste Manifest is "otherwise authorized by Federal law."

Persons intending to submit rebuttal comments should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth in 49 CFR 107.201-107.211.

Issued in Washington, DC on September 18, 1992.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-23294 Filed 9-24-92; 8:45 am]

BILLING CODE 4910-60-M

[Notice No: 92-17]

Investment in the Infrastructure Commission Meeting

AGENCY: Department of Transportation.

ACTION: Notice of meeting of the Commission to Promote Investment in the Infrastructure.

SUMMARY: As required by the Federal Advisory Committee Act (FACA), the DOT is giving notice of an open meeting of the Commission to Promote Investment in America's Infrastructure.

DATES: The meetings will begin on Thursday, September 24, 1992 from 2 p.m. to 5 p.m. and continue on Friday, September 25, 1992 beginning at 10 a.m. and continuing until completed.

ADDRESSES: The meetings will be held in room 406 of the Dirksen Senate Office Building (2nd and C Streets, Washington, DC, 20510).

FOR FURTHER INFORMATION CONTACT: Honorable Daniel V. Flanagan, Chairman (703-522-4334) or Honorable Ralph L. Stanley, Secretary (703-771-9510) between 9 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1081 of Public Law 102–240, the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) established the Commission to Promote Investment in America's Infrastructure. Recently, the final member of that Commission has been appointed and its charter has been filled. The notice for the meetings described above could not previously be published in the Federal Register due to the lack of a charter and the lack of a full compliment of members. On September 24 and 25, the Commission will be hearing from representatives of the financial and banking industries regarding issues relating to the structure and characteristics of investment securities necessary to attract pension fund investment and infrastructure projects.

DOT has agreed to sponsor the Commission subject to enactment of DOTs 1993 appropriation including the appropriation for the Commission.

All Commission meetings will be open to the public subject to space availability. In accordance to the requirement of FACA, the Commission will keep minutes of these meetings and these minutes will be available for public inspection at DOT (400 7th Street, SW).

Dated: September 22, 1992.

Daniel V. Flanagan, Jr.,

Chairman, Infrastructure Investment Commission.

[FR Doc. 92–23456 Filed 9–23–92; 12:34 pm]

BILLING CODE 6910–62–M

DEPARTMENT OF THE TREASURY

Customs Service

Application to Restrict Parallel Imports Bearing Genuine Trademarks

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Application to Restrict Parallel Imports Bearing Genuine Trademarks.

SUMMARY: This document seeks comments on an application submitted to prevent the importation of certain goods bearing genuine "Yamaha" trademarks under the terms of a district court injunction requiring the U.S. Customs Service to provide protection to trademarks meeting certain criteria.

DATES: Comments must be received on or before October 26, 1992.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., room 2104, Washington, DC 20229. All documents submitted will be available for viewing by the public at the same address on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Chief, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., room 2104, Washington, DC 20229 (202–927–0850).

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1992, The United States District Court for the District of Columbia issued an amended order in *Lever Brothers Co.* v. *United States*, No. 86–3151 (HHG), which enjoined the U.S. Customs Service from allowing the importation of foreign-made goods otherwise admissible under 19 CFR 133.21(c)(2) that bear a trademark identical to a valid United States trademark but which are materially physically different. As a result of this court action and pending further action by a court of final resolution of *Lever Bros. Co.* v. *United States*, Appeal No. 92–5185, owners of recorded trademarks that are under common ownership or control with foreign companies that use the trademark on foreign-made goods with material physical differences can apply to Customs to stop the importation of those foreign-made goods.

In order to receive the protection as outlined by the court, applicants must first show that the trademark owner requesting the protection falls within the scope of § 133.21(c)(2) of the Customs Regulations, as opposed to § 133.21(c)(1). The District Court for the District of Columbia ordered Customs to provide protection only when goods would otherwise be admissible under § 133.21(c)(2), which applies to goods of a foreign trademark owner under common ownership or control with the U.S. trademark owner. Section (c)(1) applies to goods of a foreign trademark owner that also owns the U.S. trademark.

Applicants for protection under the terms of the court order must also show Customs that the foreign affiliate of the U.S. trademark owner uses the mark on goods with material physical differences. For this, applicants must show Customs that the goods are different, and also that the difference is "material". On June 26, 1992, by publication in the Federal Register (57 FR 28605), Customs invited trademark owners to notify Customs if they believe that the trademark owner and the goods bearing the trademark meet these criteria.

An application has been submitted pursuant to the June 26, 1992, Federal Register notice, for a restriction against the importation of goods bearing genuine "Yamaha" trademarks. Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person opposing the application. Notice of the action taken in response to the application will also be published in the Federal Register.

Dated: September 21, 1992.

Barry P. Miller,

Acting Chief, Intellectual Property Rights Branch.

[FR Doc. 92–23332 Filed 9–24–92; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 187
Friday, September 25, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

TIME AND DATE: Friday, October 2, 1992, from 8:00 a.m. to 4:00 p.m.

PLACE: San Antonio, TX.

STATUS: The meeting will be open to the public with the exception of the 12:00–1:30 p.m. session, which will be closed pursuant to the Privacy Act, in order for the Board of Directors to discuss personnel matters.

MATTERS TO BE CONSIDERED: The Board of Directors of the Commission on National and Community Service will meet on October 2, 1992 to discuss the Commission's progress and goals for next year, committee reports, the Commission's report to Congress, the fiscal year 1993 grant process, the reconsideration of proposals, and new proposal(s).

CONTACT PERSON FOR MORE INFORMATION: Terry Russell, General Counsel, Commission on National and Community Service, 529 14th Street, NW., Suite 452, Washington, DC 20045, (202) 724–0600.

Catherine Milton,

Executive Director, Commission on National and Community Service.

[FR Doc. 92–23424 Filed 9–23–92; 9:14 am]

BILLING CODE 6829–BA–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:32 a.m. on Tuesday, September 22, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters relating to certain financial institutions.

Reports of the Office of Inspector General.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and concurred in by Ms. Judith A. Walter, acting in the place and stead of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: September 22, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–23425 Filed 9–23–92; 9:13 am]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Wednesday, September 30, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed modifications to the Federal Reserve's payments system risk reduction program regarding pricing and measurement of daylight overdrafts, and proposed amendment to Regulation J (Collection of Checks and Other Items and Wire Transfers of Funds by Federal Reserve Banks). (Proposed earlier for public comment; Docket Nos. R–0668, 0721, and 0722.)

2. Publication for comment of proposed change in the Fedwire funds transfer service operating hours.

3. Proposed amendments to Regulation CC (Availability of Funds and Collection and Checks) to provide for same-day settlement for checks. (Proposed earlier for public comment; Docket No. R–0723.)

4. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–23497 Filed 9–23–92; 2:35 pm]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12:00 noon, Wednesday, September 30, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–23513 Filed 9–23–92; 2:34 pm]

BILLING CODE 6210–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on August 31, 1992, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for October 5, 1992, in

Washington, DC. The members will consider 1) the July 17, 1992, Postal Rate Commission Opinion and Recommended Decision in Docket No. MC91–3, Second-Class Pallet Discount, 1991, and 2) a filing with the Postal Rate Commission to Establish a Bulk Small Parcel Service.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Mackie, Nevin, Pace, Setrakian and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(3) of Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c) (3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39, United States Code; and section 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 92–23489 Filed 9–23–92; 2:59 pm]

BILLING CODE 7710–12–M

Corrections

Federal Register
Vol. 57, No. 187
Friday, September 25, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92-90-000, et al.]

New England Co., et al.; Electric Rate, Small Power Production and Interlocking Directorate Filings

Correction

In notice document 92-21688 beginning on page 41484 in the issue of Thursday, September 10, 1992, on page 41486, in the third column, under **6. TAMPA ELECTRIC CO.**, "[Docket No. ER92-782-000]" should read "[Docket No. ER92-792-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM93-1-79-000]

Sabine Pipe Line Co. Proposed Changes in FERC Gas Tariff

Correction

In notice document 92-21768 appearing on page 41492 in the issue of Thursday, September 10, 1992, in the third column, under the subagency heading, the Docket No. should be inserted as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-92-25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 92-21096 beginning on page 40239 in the issue of Wednesday, September 2, 1992, on page 40240, in the second column, in the second grant, "*Docket No.:* 078." should read "*Docket No.:* 15078.".

BILLING CODE 1505-01-D

federal register

Friday
September 25, 1992

Part II

Department of Education

34 CFR Parts 785, 786 and 787
National Diffusion Network; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 785, 786 and 787

RIN 1850-AA42

National Diffusion Network

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the National Diffusion Network. These amendments would establish Program Effectiveness Panel (PEP) review procedures for reapproval of exemplary programs, products, practices, and dissemination processes that have been previously approved by either the Joint Dissemination Review Panel (JDRP) or the PEP.

DATES: Comments must be received on or before October 26, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Helen O'Leary, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208-5645.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Helen O'Leary, (202) 219-2134. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The National Diffusion Network (NDN) supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by promoting the nationwide dissemination of exemplary education programs, products, and practices. These programs, products, and practices have been developed at the local level by classroom teachers and other practitioners with funds provided by a variety of sources including school districts, private businesses, foundations, colleges, universities, State educational agencies, and Federal programs. The Program Effectiveness Panel of the Department of Education conducts a rigorous review of the results of local field testing and evaluation for each program, product, and practice submitted for review to determine the effectiveness and capacity of each for implementation. (The predecessor of the PEP was the Joint Dissemination Review Panel, which conducted these reviews until August 1987). The PEP approves a program, product, or practice for a period of six years. Once approved, the program, product, or practice is considered part of the NDN. The developer of a program, product, or practice that has current PEP or JDRP approval may compete for funding by the NDN to operate as: (1) A Developer Demonstrator (DD) project to disseminate the approved exemplary program, product, or practice nationwide; or (2) a Dissemination Process (DP) project to disseminate information, instructional materials, and services about content areas, areas of research, or fields of professional development.

Summary of Proposed Changes

The Secretary proposes to amend part 786 of the program regulations to establish separate criteria for the PEP review of a previously approved DD program, product, or practice. Under the existing regulations, a program, product, or practice submitted for reapproval is reviewed under the same criteria as those used for a new program, product, or practice submitted to the PEP for approval. Under the proposed criteria, the developer of a program, product, or practice must submit evidence of successful dissemination, implementation, and retention as well as evidence of continued effectiveness. These criteria were developed as the result of the recommendations of a committee composed of members of the PEP, representatives of the DD projects, and Department of Education staff.

The Secretary also proposes to amend part 787 to establish separate criteria for the PEP review of a previously approved DP project that will require the project developer to submit evidence of successful dissemination and evidence of the effectiveness of the information, instructional materials, and services that have been disseminated.

The Secretary also proposes to amend § 785.4 to update the list of applicable regulations.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small LEAs, private nonprofit organizations, and institutions of higher education that would receive Federal funds under this program. However, the regulations would not have a significant economic impact on the small entities because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 786.11, 786.17, 787.11, and 787.17 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

State and local governments and nonprofit institutions are eligible to apply for grants under these regulations. The Department needs and uses this information to make grants.

Annual public reporting burden for this collection of information is estimated to average 24 hours per response for 50 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirement of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 510, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 785, 786 and 787

Dissemination, Education, Educational research, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.073—National Diffusion Network)

Dated: April 16, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend parts 785, 786, and 787 of Title 34 of the Code of Federal Regulations as follows:

PART 785—NATIONAL DIFFUSION NETWORK: GENERAL PROVISIONS

1. The authority citation for part 785 continues to read as follows:

Authority: 20 U.S.C. 2962, unless otherwise noted.

2. Section 785.4 is amended by revising paragraph (a)(1) to read as follows:

§ 785.4 What regulations apply?

(a) * * *

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 75 (Direct Grant Programs)—except § 75.650 (Participation of students enrolled in private schools), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)), and part 86 (Drug-Free Schools and Campuses).

* * * * *

PART 786—NATIONAL DIFFUSION NETWORK: DEVELOPER DEMONSTRATOR PROJECTS

3. The authority citation for part 786 continues to read as follows:

Authority: 20 U.S.C. 2962, unless otherwise noted.

4. Section 786.11 is revised to read as follows:

§ 786.11 What must an applicant submit for review by the PEP?

(a) For PEP review of a program, product, or practice that has not been previously approved by the PEP or JDRP, an eligible applicant shall submit to the Secretary qualitative or quantitative evidence, or both, of the effectiveness of the program, product, or practice.

(b) For PEP review of a program, product, or practice that has been previously approved by the PEP or JDRP, an eligible applicant shall submit to the Secretary qualitative and quantitative evidence of dissemination, implementation, and continued effective results of the program, product, or practice.

(Authority: 20 U.S.C. 2962)

5. Section 786.12 is amended by revising the heading and paragraph (a) to read as follows:

§ 786.12 How does the PEP review a program, product, or practice that has not been previously approved by the PEP or the JDRP?

(a) The PEP reviews each program, product, or practice that has not been previously approved by the PEP or the JDRP for educational effectiveness on the basis of the criteria in paragraph (d) of this section.

* * * * *

6. A new § 786.17 is added to subpart B to read as follows:

§ 786.17 How does the PEP review an exemplary program, product, or practice that has been previously approved by the PEP or the JDRP?

(a) The PEP reviews each program, product, or practice that has been previously approved by the PEP or the JDRP for evidence of its successful dissemination, for evidence of its successful implementation, and for evidence of its educational effectiveness, on the basis of the criteria in paragraph (d) of this section.

(b) The PEP awards up to 100 points for these criteria.

(c) The maximum score for each criterion is indicated in parentheses following the criterion.

(d) In reviewing each program, product, or practice the PEP determines the following:

(1) *Dissemination.* (25 points) The PEP determines the extent to which the program, product, or practice demonstrates successful performance in serving educational needs in the field, on the basis of evidence of—

(i) The amount and types of information provided about the program, product, or practice;

(ii) The extent to which the program, product, or practice has been adopted; and

(iii) The number of participants trained to adopt the program, product, or practice.

(2) *Implementation and retention.* (25 points) The PEP determines the extent to which the program, product, or practice has been successfully implemented and retained by adoption sites on the basis of evidence of—

(i) The extent to which the program, product, or practice has been implemented in adoption sites with reasonable fidelity to the original elements of the program, product, or practice;

(ii) The extent to which the program, product, or practice has been continued, over time, in adoption sites with reasonable fidelity to the original elements;

(iii) The extent of the demonstrated understanding of and commitment to the program, product, or practice by personnel in adoption sites; and

(iv) The institutional commitment to continue the program, product, or practice as evidenced by such actions as the extension of training to additional sites or staff or the commitment of funding for continued implementation.

(3) *Effectiveness.* (50 points) The PEP determines the extent to which the program, product, or practice shows evidence from several adoption sites of continued effective results relative to

the original claims of effectiveness made for the program, product, or practice. The PEP considers qualitative or quantitative evidence of the effectiveness of the program, product, or practice, if the evidence is logically linked to the substance of the claims and evaluation design originally submitted to the PEP or the JDRP.

(Authority: 20 U.S.C. 2962)

7. A new § 786.18 is added to Subpart B to read as follows:

§ 786.18 How is PEP reapproval granted?

PEP reapproval is granted if the PEP has given the program, product, or practice a total score of at least 70 points for the criteria in § 786.17.

(Authority: 20 U.S.C. 2962)

8. A new § 786.19 is added to Subpart B to read as follows:

§ 786.19 How long does PEP reapproval last?

PEP reapproval remains in effect for six years from the date of reapproval.

(Authority: 20 U.S.C. 2962)

PART 787—NATIONAL DIFFUSION NETWORK: DISSEMINATION PROCESS PROJECTS

9. The authority citation for part 787 continues to read as follows:

Authority: 20 U.S.C. 2962, unless otherwise noted.

10. Section 787.2 is revised to read as follows:

§ 787.2 Who is eligible for an award?

(a) *New awards.* Any public or nonprofit private agency, organization, or institution that has in operation a dissemination process that has current Program Effectiveness Panel (PEP) approval may apply for a new Dissemination Process grant.

(b) *Continuation awards.* Any Dissemination Process grantee, otherwise eligible to apply for a continuation award, may apply for the continuation award even if either the PEP approval period or the JDRP approval period has expired.

(Authority: 20 U.S.C. 2962)

11. Section 787.11 is revised to read as follows:

§ 787.11 What must an applicant submit for review by the PEP?

(a) For PEP review of a dissemination process that has not been previously approved by the PEP or the JDRP, an eligible applicant shall submit to the Secretary—

(1) A description of its dissemination process;

(2) A description of the procedures and criteria for selecting information, materials, and services to be disseminated and for judging that they are educationally significant; and

(3) A description of the procedures and criteria for evaluating qualitative and quantitative evidence of the effectiveness of information, instructional materials, and services to be disseminated.

(b) For PEP review of a dissemination process that has been previously approved by the PEP or the JDRP, an eligible applicant shall submit to the Secretary—

(1) A description of its dissemination process;

(2) A description of the procedures and criteria for selecting information, materials, and services to be disseminated and for judging that they are educationally significant;

(3) A description of the procedures and criteria for evaluating qualitative and quantitative evidence of the effectiveness of information, instructional materials, and services to be disseminated;

(4) Information about the extent to which information, materials, and services have been disseminated; and

(5) Qualitative and quantitative evidence of the effectiveness of the information, instructional materials, and services that have been disseminated, based on the evaluation procedures and criteria described by the applicant in the previously approved PEP or JDRP submittal.

(Authority: 20 U.S.C. 2962)

12. Section 787.12 is amended by revising the heading and paragraph (a) to read as follows:

§ 787.12 How does the PEP review a Dissemination Process that has not been previously approved by the PEP or the JDRP?

(a) The PEP reviews each dissemination process that has not been previously approved by the PEP or the JDRP for educational effectiveness by examining the procedures and criteria for selecting information and instructional materials to be disseminated and for providing services according to the criteria in paragraph (d) of this section.

* * * * *

13. A new § 787.17 is added to Subpart B to read as follows:

§ 787.17 How does the PEP review a Dissemination Process that has been previously approved by the PEP or the JDRP?

(a) The PEP reviews each dissemination process that has been previously approved by the PEP or the JDRP for educational effectiveness by examining the information submitted according to the requirements described in § 787.11(b), on the basis of criteria in paragraph (d) of this section.

(b) The PEP awards up to 100 points for these criteria.

(c) The maximum score for each criterion is indicated in parentheses following the criterion.

(d) In reviewing each dissemination process the PEP determines the following:

(1) *Evaluation design.* (25 points) The PEP determines the extent to which the evaluation design continues to—

(i) Be appropriate for the program;

(ii) Be based on correct interpretation of relevant research and literature;

(iii) Demonstrate that a clear and attributable connection exists between the evidence of an educational effect and the program treatment; and

(iv) Address rival hypotheses.

(2) *Results.* (25 points) The PEP determines the extent to which the results indicate that the process has been and will continue to be particularly effective relative to similar processes.

(3) *Replication.* (50 points) The PEP determines the extent to which—

(i) The information, instructional materials, and services have been used at other sites;

(ii) The information, instructional materials, and services are used at other sites with reasonable fidelity to the original model; and

(iii) The information, instructional materials, and services will continue to be used at other sites with the likelihood of continuing to achieve similar results.

(Authority: 20 U.S.C. 2962)

14. A new § 787.18 is added to Subpart B to read as follows:

§ 787.18 How is PEP reapproval granted?

PEP reapproval is granted if the PEP has given the procedures and criteria a score of at least 20 points for the criterion in § 787.17(d)(2) (Results) and a total score of at least 70 points for all the procedures and the criteria in § 787.17.

(Authority: 20 U.S.C. 2962)

15. A new § 787.19 is added to Subpart B to read as follows:

§ 787.19 How long does PEP reapproval last?

PEP reapproval remains in effect for six years from the date of reapproval.

(Authority: 20 U.S.C. 2962)

[FR Doc. 92-23273 Filed 9-24-92; 8:45 am]
BILLING CODE 4000-01-M

federal register

Friday
September 25, 1992

Part III

Environmental Protection Agency

Final NPDES General Permits for Storm Water Discharges from Construction Sites; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4511-2]

Final NPDES General Permits for Storm Water Discharges From Construction Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permits.

SUMMARY: The Regional Administrators of Regions I, II, III, IV, and IX (the "Regions" or the "Directors") are today issuing final National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges associated with industrial activity from construction sites in Florida (except from Indian lands), Massachusetts, the District of Columbia, Guam and American Samoa; on Indian lands in New York; and from Federal facilities in Delaware.

These general permits establish Notice of Intent (NOI) requirements, special conditions, requirements to develop and implement storm water pollution prevention plans, and requirements to conduct site inspections for facilities with discharges authorized by the permit.

DATES: These general permits shall be effective on November 25, 1992. This effective date is necessary to provide appropriate dischargers with the opportunity to comply with the October 1, 1992 deadline for submitting an NPDES application for storm water discharges associated with industrial by submitting a Notice of Intent (NOI) to be covered by the permits.

Deadlines for submittal of Notices of Intent (NOIs) are provided in Part II.A of the general permits. Today's general permits also provide additional dates for compliance with the terms of the permit.

ADDRESSES: Notices of Intent to be authorized to discharge under these permits should be sent to: Storm Water Notices of Intent, PO Box 1215, Newington, VA 22122.

Other submittals of information required under these permits or individual permit applications should be sent to the appropriate EPA Regional Office. The addresses of the Regional Offices and the name and phone number of the Storm Water Regional Coordinator is provided in Section II of the Fact Sheet.

The index to the administrative records for these permits is available at the appropriate Regional Office. The complete administrative record is located at EPA Headquarters, EPA Public Information Reference Unit, room 2402, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying. Specific record information will be made available at the appropriate Regional Office as requested.

FOR FURTHER INFORMATION CONTACT: For further information on the final NPDES general permits and for copies of the Notice of Intent form (the Notice of Intent form in appendix C of this notice can be copied and submitted) contact the NPDES Storm Water Hotline at (703) 821–4823, or the appropriate EPA Regional Office. The name, address and phone number of the Regional Storm Water Coordinators are provided in Section II of the Fact Sheet.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Regional Contacts
III. Section 401 Certification
IV. Economic Impact (Executive Order 12291)
V. Paperwork Reduction Act
VI. Regulatory Flexibility Act

Other submittals of information required under these permits or individual permit applications should be sent to the appropriate EPA Regional Office. The addresses of the Regional Offices and the name and phone number of the Storm Water Regional Coordinator is provided in Section II of the Fact Sheet.

The index to the administrative records for these permits is available at the appropriate Regional Office. The complete administrative record is located at EPA Headquarters, EPA Public Information Reference Unit, room 2402, 401 M Street SW, Washington DC 20460. A reasonable fee may be charged for copying. Specific record information will be made available at the appropriate Regional Office as requested.

I. Introduction

The Regional Administrators of the United States Environmental Protection Agency (EPA) are issuing final general permits for the majority of storm water discharges associated with industrial activity from construction activities as follows:

Region I—for the State of Massachusetts.

Region II—for Indian lands located in New York.

Region III—for the District of Columbia and for Federal facilities in Delaware.

Region IV—for the State of Florida.

Region IX—for Guam and American Samoa.

On August 16, 1991 (56 FR 40948), EPA requested public comment on draft National Pollutant Discharge Elimination System (NPDES) general permits that were the basis for today's final general permits. In addition to addressing storm water discharges from construction activities, the August 16, 1991, draft general permits addressed storm water discharges from other industrial activities. The permits in this notice only address storm water associated with construction activity.

EPA received over 125 comments on construction issues associated with the draft general permits. In addition, public hearings to discuss the draft general permits were held in Dallas, TX; Oklahoma City, OK; Baton Rouge, LA; Albuquerque, NM; Seattle, WA; Boise, ID; Juneau, AK; Pierre, SD; Phoenix, AZ; Orlando, FL; Tallahassee, FL; Augusta, ME; Boston, MA; and Manchester, NH.

On September 9, 1992 (57 FR 41176), EPA published final National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges associated with industrial activity from construction sites in 10 States (Alaska, Arizona, Idaho, Louisiana, Maine, New Hampshire, New Mexico, Oklahoma, South Dakota, and Texas); the Territories of Puerto Rico, Johnston Atoll, and Midway and Wake Islands; on Indian lands in Alaska, Arizona, California, Colorado, Florida, Idaho, Maine, Massachusetts, Mississippi, Montana, New Hampshire, Nevada, North Carolina, North Dakota, Nevada, Utah, Washington, and Wyoming; from Federal facilities in Colorado, and Washington; and from Federal facilities and Indian lands in Louisiana, New Mexico, Oklahoma, and Texas.

EPA is incorporating portions of the detailed fact sheet for the general permit for storm water discharges from construction activity published on September 9, 1992, as part of the final fact sheet and statement of basis for today's final permit. The sections of the fact sheet published on September 9, 1992 [1] being incorporated are Section I, Introduction; Section II, Coverage of General Permits; Section III, Summary of Options for Controlling Pollutants; Section IV, Summary of Permit Conditions; and Section V, Cost Estimates; and Appendix A—Summary

[1] The September 9, 1992, fact sheets incorporate portions of the draft general permits published on August 16, 1991 (56 FR 40948). These portions of the August 16, 1991, fact sheets are also incorporated into today's permits. Sections of the August 16, 1991, fact sheet being incorporated are section 1, Background; section 4, Summary of Options for Controlling Pollutants; and section 5, The Federal/Municipal Partnership: The Role of Municipal Operators of Large and Medium Municipal Separate Storm Sewers.

of Responses to Public Comments on the August 16, 1991, Draft General Permits.

Today's notice addresses final NPDES general permits for storm water discharges associated with industrial activity from construction sites in Florida (except from Indian lands), Massachusetts, District of Columbia, Guam and American Samoa; on Indian lands in New York; and from Federal facilities in Delaware. Today's notice contains four sets of appendices. Appendix A incorporates Appendix A—Summary of Responses to Public Comments on the August 16, 1991, Draft General Permits, of the September 9, 1992 permits. Appendix B provides the language of the final general permits. The permits in Appendix B are similar, and are similar to the final permits published on September 9, 1992. Except as provided in Part X of the permits. Parts I through IX apply to all permits. Part X of the permit contains conditions which only apply to dischargers in the State indicated. Appendix C is a copy of the Notice of Intent (NOI) form (and associated instructions) to be used by dischargers wanting to obtain coverage under the general permits. Appendix D is a copy of the Notice of Termination (NOT) form (and associated instructions) that can be used by dischargers wanting to notify EPA that their storm water dischargers have been terminated or that the permittee has transferred operation of the facility.

II. Regional Contacts

Notices of Intent to be authorized to discharge under these permits must be sent to: Storm Water Notices of Intent, PO Box 1215, Newington, VA 22122.

Other submittal of information required under these permits or individual permit applications or other written correspondence concerning discharges in any State, Indian land, or from any Federal Facility covered, should be sent to the appropriate EPA Regional Office listed below:

Massachusetts

United States EPA, Region I, Water Management Division (WCP-2109), Storm Water Staff, John F. Kennedy Federal Building, Room 2209, Boston, MA 02203, Contact: Veronica Harrington, (617) 565-3525

New York (Indian Lands)

United States EPA, Region II, Water Management Division (2WM-WPC), Storm Water Staff, 26 Federal Plaza, New York, NY 10278, Contact: Jose Rivera, (212) 264-2911

District of Columbia, Delaware (Federal Facilities)

United States EPA, Region III, Water Management Division (3WM55), 841 Chestnut Building, Philadelphia, PA 19107, Contact: Kevin Magerr, (215) 597-1651

Florida

United States EPA, Region IV, Water Management Division (FPB-3), Storm Water Staff, 345 Courtland Street, NE Atlanta, GA 30365, Contact: Chris Thomas, (404) 347-3012

Guam and American Samoa

United States EPA, Region IX, Water Management Division (W-5-1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, Contact: Eugene Bromley, (415) 744-1906

III. Section 401—Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA. The Section 401 certification process has been completed for all States, Indian lands and Federal facilities covered by today's general permits. The following summary indicates where additional permit requirements have been added as a result of the certification process.

Massachusetts

See the following and Part X.A of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the Commonwealth of Massachusetts required inclusion of the following conditions necessary to ensure compliance with State water quality concerns.

Storm water discharges not eligible for coverage under this permit include new or increased storm water discharges to coastal water segments within Massachusetts designated as "Areas of Critical Environmental Concern (ACEC)" (for information on ACEC, please contact the Executive Office of Environmental Affairs, Coastal Zone Management at (617) 727-9530). In addition, new or increased discharges, as defined at 314 CMR 4.02(19), which meet the definition of "storm water discharge," as defined at 314 CMR 3.04(2)(a)(1) or (2)(b), to Outstanding Resource Waters which have not met the provisions of 314 CMR 4.04(3) and Part III C.1 of this permit (as amended by the special requirements for discharges in Massachusetts), are not eligible for coverage under this permit.

Permittees in Massachusetts are to submit NOIs to the following address: Storm Water Staff, Storm Water Notice of Intent, US EPA Region 1, MA, PO Box 1215, Newington, VA 22122. A copy of the NOI for all discharges to Outstanding Resource Waters shall be submitted to the Commonwealth of Massachusetts at the following address: Massachusetts Department of Environmental Protection, Storm Water Notice of Intent, BRP-WP 43, PO Box 4062, Boston, Massachusetts, 02211.

For details on filing for permits with MA DEP see 310 CMR 4.00, *Timely Action Schedule and Fee Provisions*. For other information call the MA DEP Information Services at (617) 338-2255 or the Technical Services Section of the DEP Division of Water Pollution Control at (508) 792-7470.

Massachusetts 401 certification requires the following best management practices. Storm water discharge outfall pipes to Outstanding Resource Waters shall be removed and the discharge set back from the receiving water when dischargers are seeking to increase the discharge or change the site drainage system; all new discharge outfalls must be set back from the receiving water. Receiving swales for outfall pipes shall be prepared to minimize erosion and maximize infiltration prior to discharge. The goal is to infiltrate as much as feasible; infiltration trenches and basins, filter media dikes and/or other BMPs shall be used to meet the goal. *Protecting Water Quality in Urban Areas* by the Minnesota Pollution Control Agency, Division of Water Quality is a reference for BMPs.

Storm water discharges to waters that are not classified as Outstanding Resource Waters shall be subject to the requirements of this permit. New discharge outfall pipes shall be designed to be set back from the receiving water when site conditions allow. For existing discharge outfall pipes, when the storm water drainage system is undergoing changes, outfall pipes shall be set back from the receiving water. A receiving swale, infiltration trench or basin, filter media dike or other BMP should be prepared with the goal to minimize erosion yet maximize infiltration or otherwise improve water quality prior to discharge.

All discharges to Outstanding Resource Waters authorized under this permit must be provided the best practical method of treatment to protect

and maintain the designated use of the outstanding resource.

Delaware

See the following discussion and Part X.C of the general permit for additional 401 conditions. As a condition for certification under section 401 of the CWA, the State of Delaware required inclusion of the following conditions necessary to insure compliance with State water quality concerns.

In addition to submitting all NOIs to the central NOI receiving office in Newington, VA, permittees in Delaware also must submit a copy of all NOIs to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 140, Dover, DE 19903. All Discharge Monitoring Reports (DMRs), pollution prevention plans, as well as subsequent revisions, must be submitted to the State of Delaware at this same address. DMRs also must be submitted to the NPDES Programs Director, U.S. EPA Region III, Water Management Division (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107.

Delaware's general permit stipulates that all permittees comply with the requirements of 7 Delaware Code Chapter 40 and the Delaware Sediment and Storm Water Regulations (January, 1991).

Applicants are required to obtain a certification of consistency with the Delaware Coastal Management Program (CZMA 1972, 16 U.S.C. 1451).

District of Columbia

See the following discussion and Part X.D of the general permit for additional 401 conditions. As a condition for certification under section 401 of the CWA, the District of Columbia required inclusion of the following special conditions.

Any unpermitted discharges that are subject to the NPDES program, excluding discharges associated with construction activity, are not authorized by this permit.

Florida

See the following discussion and Part X.E of the general permit for additional 401 conditions.

As a condition for certification under section 401 of the CWA, the State of Florida required inclusion of the following conditions necessary to insure compliance with State water quality concerns.

In addition to the NOI requirements set forth in Part II of this permit, the State of Florida requires that prior to submitting an NOI, the owner of a storm water management system must receive a State of Florida storm water permit from either the Florida Department of Environmental Regulation (FDER) or a Florida Water Management District (FWMD).

The permittee shall submit a narrative statement certifying that the storm water pollution prevention plan for the facility provides compliance with approved State of Florida issued permits, erosion and sediment control plans and storm water management plans. In addition, the permittee also shall submit a copy of the cover page of the State permit issued by FDER or a FWMD to the facility for the storm water associated with construction activities.

Please note that facilities that discharge storm water associated with construction activities to a municipal separate storm sewer system within Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pineallas, Polk or Sarosota Counties shall submit a copy of the NOI to the operator of the municipal separate storm sewer system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities and Chapter 298 Special Districts shall also be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

Florida's general permit stipulates that any non-storm water component (as defined at Part III (A)(2)(b)) of a facility's discharge must be in compliance with paragraph IV.D.5 and the storm water management system must be designed to accept these discharges and provide treatment of the non-storm water component sufficient to meet Florida water quality standards. Discharges resulting from ground water dewatering activities at construction sites are not covered by this permit. The applicant may seek coverage for these discharges under NPDES General Permit No. FLG830000, published on July 17, 1989 (54 FR 29986) and modified on August 29, 1991 (56 FR 42736).

Permittees must submit a copy of all pollution prevention plans to the State agency which issued the storm water permit, and shall make plans available upon request to the Director.

The permittee must amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States, including the addition of or change in location of storm water discharge points. Amendments to the plan must be submitted to the State agency which issued the State storm water permit.

In providing an estimate of the runoff coefficient of the site before, during and after construction, permittees must utilize the "C" from the Rational Method; also, permittees must provide an estimate of the size of the drainage area for each outfall.

All storm water management controls, required pursuant to Part IV of this permit, shall be consistent with the requirements set forth in State Water Policy of Florida (Chapter 17–40, Florida Administrative Code), the applicable storm water permitting requirements of the FDER or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDER, 1988) and any subsequent amendments.

Florida's general permit requires that site stabilization measures be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Please note that paragraphs (a), (b) and (c), which provide exceptions to these required stabilization practices, have been deleted to meet Florida water quality concerns.

As part of the pollution prevention plan, permittees must provide a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge or pollutants from exposed areas of the site in accordance with the requirements set forth in Section 17–40, 420, F.A.C., and the applicable storm water regulations of the FDER or appropriate FWMD. Structural practices shall be placed on upland soils unless a State of Florida wetland resource management permit issued pursuant to Chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD authorize otherwise.

The description of controls in Part IV of the permit shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 17–40, F.A.C.), the applicable storm water permitting regulations of the FDER or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDER, 1988), and any subsequent amendments. Structural measures shall be placed on upland soils unless a State of Florida wetland resource management permit issued pursuant to Chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD authorize otherwise.

The installation of these devices may be subject to section 404 of the CWA. This NPDES permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site. However, all storm water management systems shall be operated and maintained in perpetuity after final site stabilization in accordance with the requirements set forth in the State of Florida storm water permit issued for the site.

Pursuant to the requirements of Section 17–40, 420, F.A.C., the storm water management system shall be designed to remove at least 80 percent of the average annual load of pollutants which cause or contribute to violations of water quality standards (95 percent if the system discharges to an Outstanding Florida Water).

Regarding velocity dissipation devices, equalization of the pre-development and post-development storm water peak discharge rate and volume shall be a goal in the design of the post-development storm water management system.

No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a Section 404 permit and by a State of Florida wetland resource management permit issued pursuant to Chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD.

The plan shall address the proper application rates and methods for the use of fertilizers and pesticides at the construction site and set forth how these procedures will be implemented and enforced.

Florida's general permit requires that qualified personnel (provided by the discharger) inspect all points of discharge into waters of the United States or to a municipal separate storm sewer system. In addition to those items required to be inspected under Part IV of this permit, designated personnel must also inspect storm water management systems.

Permittees must inspect disturbed areas and areas used for storage of materials that are exposed to precipitation for evidence of, or the potential for, pollutants entering the storm water management system. In addition, the storm water management system and erosion and sediment control measures identified in the plan must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to ascertain whether erosion control and storm water management measures are effective in meeting the performance standards set forth in State Water Policy (Chapter 17–40, F.A.C.) and the applicable storm water permitting regulations of the FDER or appropriate FWMD.

Permittees must allow the Director or an authorized representative of EPA, the State, or a municipal separate storm sewer system, to sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameter at any location on the site.

A copy of the Notice of Termination shall be sent to the State agency which issued the State storm water permit for the site and, if the storm water management system discharges to a municipal separate storm sewer system within Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk or Sarasota Counties, to the owner of that system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and Chapter 298 Special Districts also shall be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

American Samoa

See the following discussion and Part X.F of the general permit for additional 401 conditions. As a condition for certification under section 401 of the CWA, the territory of American Samoa required inclusion of the following special conditions.

Permittees must submit a copy of all NOIs and pollution prevention plans to the American Samoa Environmental Protection Agency.

Guam

See the following and Part X.G for 401 conditions. As a condition for certification under section 401 of the CWA, the territory of Guam required inclusion of the following special conditions.

Permittees must submit a copy of all NOIs to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911, and to other appropriate Government of Guam agencies. All pollution prevention plans and discharge monitoring reports (DMRs) also must be submitted to Guam EPA.

IV. Economic Impact (Executive Order 12291)

EPA has submitted this notice to the Office of Management and Budget for review under Executive Order 12291.

V. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these final general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. EPA did not prepare an Information Collection Request (ICR) document for today's permits because the information collection requirements in these permits have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No Regulatory Flexibility Analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permits provide small entities with an application option that is less burdensome than individual applications or participating in a group application. The other requirements have been designed to minimize significant economic impacts of the rule on small entities and does not have a significant impact on industry. In addition, the permits reduce significant administrative burdens on regulated sources. Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: September 17, 1992.

Paul Keough,

Acting Regional Administrator, Region I.

Dated: September 3, 1992.

Constantine Sidamon-Eristoff,

Regional Administrator, Region II.

Dated: September 11, 1992.

A.R. Morris,

Acting Regional Administrator, Region III.

Dated: September 17, 1992.

Donald J. Guinyard,

Acting Regional Administrator, Region IV.

Dated: September 16, 1992.

John Wise,

Regional Administrator, Region IX.

Appendix A—Summary of Response to Public Comments on the August 16, 1991, Draft General Permits

The Summary of responses to Public Comment on the August 16, 1991, draft general permits presented in Appendix A of the September 9, 1992, final general permits at 57 FR 41189, is hereby incorporated in Appendix A of today's notice.

Appendix B—NPDES General Permits for Storm Water Discharges From Construction Activities That are Classified as "Associated With Industrial Activity"

Authorization to Discharge Under the National Pollutant Discharge Elimination System

[Permit No. *MAR*100000]

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. . . 1251 et. seq; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located in the State of Massachusetts, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 17th day of September 1992.

Larry Brill,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through IX and for any additional conditions in part X which apply to facilities located in the State of Massachusetts.

[NPDES Permit Number NYR10000F]

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located on Indian Lands in New York State are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and Issued this 3rd day of September 1992.

Richard L. Caspe, P.E.,

Director, Water Management Division, U.S. Environmental Protection Agency, Region II.

[Permit No. — — R100000 or *DE* R100000F (for only Indian lands and/or Fed. fac)]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located in Federal Facilities in the state of Delaware, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September 1992

A.R. Morris,

(signature of Water Management Director or Regional Administrator).

[Permit No. *D/C* R100000 or — — R100000F (for only Indian lands and/or Fed. fac)]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located in the District of Columbia, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September 1992

A.R. Morris,

(signature of Water Management Director or Regional Administrator).

[General Permit Number FLR100000]

Region IV: Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*, the "Act"), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial

activity", located in the State of Florida are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by this permit must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and Issued: September 17, 1992.

Allan E. Antley,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through IX and for any additional conditions in Part X which apply to facilities located in the State of Florida.

[Storm Water General Permit for Construction Activities]

[Permit No. GUR100000]

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (U.S.C. . . 1251 et. seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located on the Island of Guam are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by this permit must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through IX and for any additional conditions in Part X which apply to facilities located onthe Island of Guam.

[Storm Water General Permit for Construction Activities]

[Permit No. ASR100000]

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (U.S.C. . . 1251 et. seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges from construction activities that are classified as "associated with industrial activity", located on America Samoa are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from construction activities within the general permit area who intend to be authorized by this permit must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through IX and for any additional conditions in Part X which apply to facilities located on American Samoa.

NPDES General Permits for Storm Water Discharges From Construction Activities That Are Classified as "Associated With Industrial Activity"

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F. Guam

Preface

The Clean Water Act (CWA) provides that storm water discharges associated with industrial activity from a point source (including discharges through a municipal separate storm sewer system) to waters of the United States are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The terms "storm water discharge associated with industrial activity", "point source" and "waters of the United States" are critical to determining whether a facility is subject to this requirement. Complete definitions of these terms are found in the definition section (Part IX) of this permit.

The United States Environmental Protection Agency (EPA) has established the Storm Water Hotline at (703) 821-4823 to assist the Regional Offices in distributing notice of intent forms and storm water pollution prevention plan guidance, and to provide information pertaining to the storm water regulations.

Part I. Coverage Under this Permit

A. *Permit Area.* The permit covers all areas of:

Region I—the State of Massachusetts.
Region II—Indian lands in New York.
Region III—the District of Columbia and Federal facilities in the State of Delaware.
Region IV—the State of Florida.
Region IX—American Samoa and Guam.

B. Eligibility

1. This permit may authorize all discharges of storm water associated with industrial activity from construction sites, (those sites or common plans of development or sale that will result in the disturbance of five or more acres total land areas),[2] (henceforth referred to as storm water discharges from construction activities) occurring after the effective date of this permit (including discharges occurring after the effective date of this permit where the construction activity was initiated before the effective date of this permit), except for discharges identified under paragraph I.B.3.

2. This permit may only authorize a storm water discharge associated with industrial activity from a construction site that is mixed with a storm water discharge from an industrial source other than construction, where:

a. the industrial source other than construction is located on the same site as the construction activity;

b. storm water discharges associated with industrial activity from the areas of the site where construction activities are occurring are in compliance with the terms of this permit; and

c. storm water discharges associated with industrial activity from the areas of the site where industrial activity other than construction are occurring (including storm water discharges from dedicated asphalt plants and dedicated concrete plants) are covered by a different NPDES general permit or individual permit authorizing such discharges.

[2] On June 4, 1992, the United State Court of Appeals for the Ninth Circuit remanded the exemption for construction sites of less than five acres to the EPA for further rulemaking. (Nos. 90-70671) and 91-70200).

3. *Limitations on Coverage.* The following storm water discharges from construction sites are not authorized by this permit:

a. storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization.

b. discharges that are mixed with sources of non-storm water other than discharges which are identified in Part III.A of this permit and which are in compliance with Part IV.D.5 (non-storm water discharges) of this permit.

c. storm water discharges associated with industrial activity that are subject to an existing NPDES individual or general permit or which are issued a permit in accordance with paragraph VI.L (requiring an individual permit or an alternative general permit) of this permit. Such discharges may be authorized under this permit after an existing permit expires provided the existing permit did not establish numeric limitations for such discharges;

d. storm water discharges from construction sites that the Director (EPA) has determined to be or may reasonable be expected to be contributing to a violation of a water quality standard; and

e. storm water discharges from construction sites if the discharges may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat.

C. Authorization

1. A discharger must submit a Notice of Intent (NOI) in accordance with the requirements of Part II of this permit, using a NOI form provided by the Director (or a photocopy thereof), in order for storm water discharges from construction sites to be authorized to discharge under this general permit.[3]

2. Where a new operator is selected after the submittal of an NOI under Part II, a new Notice of Intent (NOI) must be submitted by the operator in accordance with Part II, using a NOI form provided by the Director (or a photocopy thereof).

3. Unless notified by the Director to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit 2 days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VI.L of this permit).

[3] A copy of the approved NOI form is provided in Appendix C of this notice.

Part II. Notice of Intent Requirements

A. Deadlines for Notification

1. Except as provided in paragraphs II.A.2, II.A.3, and II.A.4, individuals who intend to obtain coverage for storm water discharges from a construction site (where disturbances associated with the construction project commence before October 1, 1992), under this general permit shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part on or before October 1, 1992;

2. Individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site where disturbances associated with the construction project commence after October 1, 1992, shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least 2 days prior to the commencement of construction activities (e.g. the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities);

3. For storm water discharges from construction sites where the operator changes (including projects where an operator is selected after a NOI has been submitted under Parts II.A.1 or U.A.2) a NOI in accordance with the requirements of this Part shall be submitted at least 2 days prior to when the operator commences work at the site; and

4. EPA will accept an NOI in accordance with the requirements of this part after the dates provided in Parts II.A.1, 2 or 3 of this permit. In such instances, EPA may bring appropriate enforcement actions.

B. *Contents of Notice of Intent.* The Notice(s) of Intent shall be signed in accordance with Part VI.G of this permit by all of the entities identified in Part II.B.2 and shall include the following information:

1. The mailing address of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address and telephone number of the operator(s) with day to day operational control that have been identified at the time of the NOI submittal, and operator status as a

Federal, State, private, public or other entity. Where multiple operators have been selected at the time of the initial NOI submittal, NOIs must be attached and submitted in the same envelope. When an additional operator submits an NOI for a site with a preexisting NPDES permit, the NOI for the additional operator must indicate the number for the preexisting NPDES permit;

3. The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s);

4. The permit number of any NPDES permit(s) for any discharge(s) (including any storm water discharges or any non-storm water discharges) from the site;

5. An indication of whether the operator has existing quantitative data which describes the concentration of pollutants in storm water discharges (existing data should not be included as part of the NOI); and

6. An estimate of project start date and completion dates, estimates of the number of acres of the site on which soil will be disturbed, and a certification that a storm water pollution prevention plan has been prepared for the site in accordance with Part IV of this permit, and such plan provides compliance with approved State and/or local sediment and erosion plans or permits and/or storm water management plans or permits in accordance with Part IV.D.2.d of this permit. (A copy of the plans or permits should not be included with the NOI submission).

C. *Where to Submit*

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VI.G of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, P.O. Box 1215, Newington, VA 22122.

2. A copy of the NOI or other indication that storm water discharges from the site are covered under a NPDES permit, and a brief description of the project shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).

D. *Additional Notification.* Facilities which are operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans shall submit signed copies of the Notice of Intent to the State or local agency approving such plans in accordance with the datelines in Part II.A of this permit (or sooner where required by State or local rules), in addition to submitting the Notice of Intent to EPA in accordance with paragraph II.C.

E. *Renotification.* Upon issuance of a new general permit, the permittee is required to notify the Director of his intent to be covered by the new general permit.

Part III. Special Conditions, Management Practices, and Other Non-Numeric Limitations

A. *Prohibition on non-storm water discharges.*

1. Except as provided in paragraph I.B.2 and III.A.2, all discharges covered by this permit shall be composed entirely of storm water.

2. a. Except as provided in paragraph III.A.2.(b), discharges of material other than storm water must be in compliance with a NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph IV.D.5: discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles or control dust in accordance with Part IV.D.2.c.(2); potable water sources including waterline flushings; irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. *Releases in excess of Reportable Quantities.*

1. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR part 117 and 40 CFR part 302. Where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

a. The permittee is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC metropolitan area 202–426–2675) in accordance with the requirements of 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

b. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with Part III.B.3 of this permit to the appropriate EPA Regional Office at the address provided in Part V.C (addresses) of this permit; and

c. The storm water pollution prevention plan required under Part IV of this permit must be modified within 14 calendar days of knowledge of the releases to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

2. *Spills.* This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

Part IV. Storm Water Pollution Prevention Plans

A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. In addition, the plan shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with industrial activity at the construction site and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

A. Deadlines for Plan Preparation and Compliance

The plan shall:

1. Be completed (including certifications required under Part IV.E) prior to the submittal of an NOI to be covered under this permit and updated as appropriate;

2. For construction activities that have begun on or before October 1, 1992, except for sediment basins required under Part IV.D.2.a.(2) (structural practices) of this permit, the plan shall provide for compliance with the terms and schedule of the plan beginning on October 1, 1992. The plan shall provide for compliance with sediment basins required under Part IV.D.2.a.(a) of this permit by no later than December 1, 1992;

3. For construction activities that have begun after October 1, 1992, the plan shall provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

B. Signature and Plan Review

1. The plan shall be signed in accordance with Part VI.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part V (retention of records) of this permit.

2. The permittee shall make plans available upon request to the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

3. The Director, or authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this Part. Within 7 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

C. *Keeping Plans Current.* The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the plan or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.2 of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan (see Part IV.E). Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B above.

D. *Contents of Plan.* The storm water pollution prevention plan shall include the following items:

1. *Site Description.* Each plan shall provide a description of pollutant sources and other information as indicated:

a. A description of the nature of the construction activity;

b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. grubbing, excavation, grading);

c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

d. An estimate of the runoff coefficient of the site after construction activities are completed and existing data describing the soil or the quality of any discharge from the site;

e. A site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas which may not be disturbed, the location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, surface waters (including wetlands), and locations where storm water is discharged to a surface water; and

f. The name of the receiving water(s), and areal extent of wetland acreage at the site.

2. *Controls.* Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each major activity identified in Part IV.D.1.b appropriate control measures and the timing during the construction process that the measures will be implemented. (For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization). The description and implementation of controls shall address the following minimum components:

a. *Erosion and Sediment Controls.*

(1). *Stabilization Practices.* A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the plan. Except as provided in paragraphs IV.D.2.(a).(1).(a), (b), and (c) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(a). Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently cease is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

(b). Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g., the total time period that construction activity is temporarily ceased is less than 21 days) then stabilization measures do not have to be initiated on that portion of site by the 14th day after construction activity temporarily ceased.

(c). In arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches), where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.

(2). *Structural Practices.* A description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Such

practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA.

(a) For common drainage locations that serve an area with 10 or more disturbed acres at one time, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,600 cubic feet of storage area per acre drained does not apply to flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. For drainage locations which serve 10 or more disturbed acres at one time and where a temporary sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area.

(b) For drainage locations serving less than 10 acres, sediment basins and/or sediment traps should be used. At a minimum, silt fences or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area unless a sediment basin providing storage for 3,600 cubic feet of storage per acre drained is provided.

b. *Storm Water Management.* A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA. This permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site.

(1). Such practices may include: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). The pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.

(2). Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel for the purpose of providing a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. no significant changes in the hydrological regime of the receiving water).

c. *Other Controls.*

(1). *Waste Disposal.* No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a section 404 permit.

(2). Off-site vehicle tracking of sediments and the generation of dust shall be minimized.

(3). The plan shall ensure and demonstrate compliance with applicable State and/or local waste disposal, sanitary sewer or septic system regulations.

d. *Approved State or Local Plans.*

(1) Permittees which discharge storm water associated with industrial activity from construction activities must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State or local officials. Permittees shall provide a certification in their storm water pollution prevention plan that their storm water pollution prevention plan reflects requirements applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State or local officials. Permittees shall comply with any such requirements during the term of the permit. This provision does not apply to provisions of master plans, comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit that is issued for the construction site.

(2) Storm water pollution prevention plans must be amended to reflect any change applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State or local officials for which the permittee receives written notice. Where the permittee receives such written notice of a change, the permittee shall provide a recertification in the storm water pollution plan that the storm water pollution prevention plan has been modified to address such changes.

(3) Dischargers seeking alternative permit requirements shall submit an individual permit application in accordance with Part VI.L of the permit at the address indicated in Part V.C of this permit for the appropriate Regional Office, along with a description of why requirements in approved State or local plans or permits, or changes to such plans or permits, should not be applicable as a condition of an NPDES permit.

3. *Maintenance.* A description of procedures to ensure the timely maintenance of vegetation, erosion and sediment control measures and other protective measures identified in the site plan in good and effective operating condition.

4. *Inspections.* Qualified personnel (provided by the discharger) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater. Where sites have been finally stabilized, or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches) such inspection shall be conducted at least once every month.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in

preventing significant impacts to receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

b. Based on the results of the inspection, the site description identified in the plan in accordance with paragraph IV.D.1 of this permit and pollution prevention measures identified in the plan in accordance with paragraph IV.D.2 of this permit shall be revised as appropriate, but in no case later than 7 calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the plan within 7 calendar days following the inspection.

c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph IV.D.4.b of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VI.G of this permit.

5. *Non-Storm Water Discharges*—Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

E. Contractors

1. The storm water pollution prevention plan must clearly identify for each measure identified in the plan, the contractor(s) and/or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in Part IV.E.2 of this permit in accordance with Part VI.G of this permit. All certifications must be included in the storm water pollution prevention plan.

2. *Certification Statement.* All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with Part IV.E.1 of this permit shall sign a copy of the following certification statement before conducting any professional service identified in the storm water pollution prevention plan:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

The certification must include the name and title of the person providing the signature in accordance with Part VI.G of this permit; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

Part V. Retention of Records

A. The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.

B. The permittee shall retain a copy of the storm water pollution prevention required by this permit at the construction site from the date of project initiation to the date of final stabilization.

C. *Addresses.* Except for the submittal of NOIs (see Part II.C of this permit), all written correspondence concerning discharges in any State, Indian land or from any Federal Facility covered under this permit and directed to the U.S. Environmental Protection Agency, including the submittal of individual permit applications, shall be sent to the address of the appropriate Regional Office listed below:

1. Massachusetts

United States EPA, Region I, Water Management Division, (WCP–2109), Storm Water Staff, John F. Kennedy Federal Building, room 2209, Boston, MA 02203

2. Indian Lands in New York

United States EPA, Region II, Water Management Division, (2WM–WPC), Storm Water Staff, 26 Federal Plaza, New York, NY 10278

3. District of Columbia, and Federal facilities in Delaware

United States EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107

4. Florida

United States EPA, Region IV, Water Management Division, (FPB–3), Storm Water Staff, 345 Courtland Street, NE, Atlanta, GA 30365

5. American Samoa and Guam

United States EPA, Region IX, Water Management Division, (W–5–1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

Part VI. Standard Permit Conditions

A. Duty to Comply

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. *Penalties for Violations of Permit Conditions.*

a. *Criminal*

(1). *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2). *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3). *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4). *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintain under the Act, shall upon

conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act).

b. *Civil Panalties*—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

c. *Administrative Panalties*—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1). *Class I penalty.* Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

(2). *Class II penalty.* Not to exceed $10,000 per day for each day during which the violation continues nor shall the maximum amount exceed $125,000.

B. Continuation of the Expired General Permit

This permit expires on [insert date five years after publication date]. However, an expired general permit continues in force and effect until a new general permit is issued. Permittees must submit a new NOI in accordance with the requirements of Part II of this permit, using a NOI form provided by the Director (or photocopy thereof) between August 1, 1997 and [insert date five years after publication date] to remain covered under the continued permit after [insert date five years after publication date]. Facilities that had not obtained coverage under the permit by [insert date five years after publication date] cannot become authorized to discharge under the continued permit.

C. *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. *Duty to Provide Information.* The permittee shall furnish to the Director; an authorized representative of the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, any information which is requested to determine compliance with this permit or other information.

F. *Other Information.* When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

G. *Signatory Requirements.* All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

2. All reports required by the permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

c. *Changes to authorization.* If an authorization under paragraph II.B.3. is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new notice of intent satisfying the requirements of paragraph II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. *Certification.* Any person signing documents under paragraph VI.G shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. *Penalties for Falsification of Reports.* Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine or not more than $10,000, or by imprisonment for not more than 2 years, or by both.

I. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or

may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

J. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

K. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

L. *Requiring an individual permit or an alternative general permit.*

1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

M. *State/Environmental Laws.*

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

N. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

O. *Inspection and Entry.* The permittee shall allow the Director or an authorized representative of EPA, the State, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

P. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VII. Reopener Clause

A. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the discharger may be required to obtain individual permit or an alternative general permit in accordance with Part I.C of this permit or the permit may be modified to include different limitations and/or requirements.

B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

Part VIII. Termination of Coverage

A. *Notice of Termination.* Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this permit are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VI.G of this permit. The Notice of Termination shall include the following information:

1. The mailing address of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address and telephone number of the operator addressed by the Notice of Termination;

3. The NPDES permit number for the storm water discharge identified by the Notice of Termination;

4. An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

5. The following certification signed in accordance with Part VI.G (signatory requirements) of this permit:

"I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act."

For the purposes of this certification, elimination of storm water discharges associated with industrial activity means that all disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated.

B. *Addresses.* All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof),[4] to the following address: Storm Water Notice of Termination, PO Box 1185, Newington, VA 22122.

Part IX. Definitions

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Commencement of Construction—The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

CWA means the Clean Water Act or the Federal Water Pollution Control Act.

Dedicated portable asphalt plant—A portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to. The term dedicated portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 CFR 443.

Dedicated portable concrete plant—A portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

Director means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

Final Stabilization means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Flow-weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Large and Medium municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

NOI means notice of intent to be covered by this permit (see Part II of this permit.)

NOT means notice of termination (see Part VIII of this permit).

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Industrial Activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant years; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial

[4] A copy of the approved NOT form is provided in Appendix D of this notice.

machinery *are exposed to storm water.* For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)–(xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection: (i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition); (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373; (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and which are not otherwise included within categories (i)–(x)).[5]

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate "wetlands";

(c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

Part X. State Specific Conditions

The provisions of this Part provide modifications or additions to the applicable conditions of Parts I through IX of this permit to reflect specific additional conditions identified as part of the State section 401 certification process. The additional revisions and requirements listed below are set forth in connection with particular State, Indian lands and Federal facilities and only apply to the States and Federal facilities specifically referenced.

A. *Massachusetts.* Massachusetts 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read as follows:

[5] On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) which do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90-70671 and 91-70200).

Part I. Coverage Under This Permit

A. *Permit Area.* This permit covers all areas of the Commonwealth of Massachusetts.

B. *Eligibility.*

* * * * *

3. *Limitations on Coverage.*

* * * * *

h. new or increased storm water discharges to coastal water segments within Massachusetts designated as "Areas of Critical Environmental Concern (ACEC)" (for information on ACEC, please contact the Executive Office of Environmental Affairs, Coastal Zone Management at (617) 727–9530);

i. new or increased discharges, as defined at 314 CMR 4.02(19), which meet the definition of "storm water discharge," as defined at 314 CMR 3.04(2)(a)(1) or (2)(b), to Outstanding Resource Waters which have not met the provisions of 314 CMR 4.04(3) and Part III C.1 of this permit.

* * * * *

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling the Storm Water Hotline at (703) 821–4823, or the NPDES Programs Operations Section at US EPA Region 1 at (617) 565–3525. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, US EPA Region 1, MA, PO Box 1215, Newington, VA 22122.

2. A copy of the NOI for all discharges to Outstanding Resource Waters shall be submitted to the Commonwealth of Massachusetts at the following address: Massachusetts Department of Environmental Protection, Storm Water Notice of Intent, BRP—WP 43, PO Box 4062, Boston, Massachusetts 02211.

For details on filing for permits with MA DEP see 310 CMR 4.00, *Timely Action Schedule and Fee Provisions.* For other information call the MA DEP Information Services Section at (617) 338–2255 or the Technical Services Section of the DEP Division of Water Pollution Control at (508) 792–7470.

* * * * *

3. Part III of the permit is revised to read as follows:

Part III. Special Conditions

* * * * *

C. *Set Backs and Best Management Practices*

1. Storm water discharge outfall pipes to public water supplies and other Outstanding Resource Waters shall be removed and set back when dischargers are seeking to increase the discharge or change the site storm water drainage system; all new discharge outfalls must be set back from the receiving water. Receiving swales for outfall pipes shall be prepared to minimize erosion and maximize infiltration prior to discharge. The goal is to infiltrate as much as feasible; infiltration trenches and basins, filter media dikes and/or other BMPs shall be used to meet the goal. Discharges shall employ Best Management Practices (BMPs) for controlling storm water. See *Protecting Water Quality in Urban Areas* by the Minnesota Pollution Control Agency, Division of Water Quality as a reference for BMPs.

2. Storm water discharges to waters that are not classified as Outstanding Resource Waters shall be subject to the requirements of this permit. New discharge outfall pipes shall be designed to be set back from the receiving water when site conditions allow. For existing discharge outfall pipes, when the storm water drainage system is undergoing changes, outfall pipes shall be set back from the receiving water. A receiving swale, infiltration trench or basin, filter media dikes or other BMPs should be prepared with the goal to minimize erosion yet maximize infiltration or otherwise improve water quality prior to discharge.

3. All discharges to Outstanding Resource Waters authorized under this permit must be provided the best practical method of treatment to protect and maintain the designated use of the outstanding resource.

B. *Delaware.* Delaware 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* This permit covers all Federal facilities administered by Region 3 in the State of Delaware.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

2. A copy of all Notices of Intent (NOIs) shall be submitted to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903.

3. The following section is added to Part III of the permit:

Part III. Special Conditions, Management Practices and Other Non-Numeric Limitations

* * * * *

C. *Special Conditions.* The permittee must comply with the requirements of 7 Delaware Code Chapter 40 and the Delaware Sediment and Storm Water Regulations (January, 1991).

4. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. *Signature and Plan Review*

* * * * *

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit. A copy of the plan, as well as subsequent revisions, shall also be submitted to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903.

C. *District of Columbia.* District of Columbia 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read as follows:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by Region 3 in the District of Columbia.

B. *Eligibility.*

* * * * *

3. Limitations on Coverage. The following storm water discharges from construction sites are not authorized by this permit:

* * * * *

f. unpermitted discharges that are subject to the NPDES program, excluding discharges associated with construction activity.

D. *Florida.* Florida 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read as follows:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by Region 4 in the State of Florida.

2. Part II of the permit is modified to read as follows:

Part II. Notice of Intent Requirements

A. *Deadlines for Notification.*

* * * * *

2. Individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site where disturbances associated with the construction project commence after October 1, 1992, shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least 2 days prior to the commencement of construction activities (e.g. the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities). Prior to submitting this NOI, the owner of a storm water management system must receive a State of Florida storm water permit from either the Florida Department of Environmental Regulation (FDER) or a Florida Water Management District (FWMD).

* * * * *

B. *Contents of Notice of Intent.*

* * * * *

6. An estimate of project start date and completion dates, estimates of the number of acres of the site on which soil will be disturbed, and a certification that a storm water pollution prevention plan has been prepared for the site in accordance with Part IV of this permit. (A copy of the plans or permits should not be included with the NOI submission). The applicant shall submit a narrative statement certifying that the storm water pollution prevention plan for the facility provides compliance with approved State of Florida issued permits, erosion and sediment control plans and storm water management plans. The applicant shall also submit a copy of the cover page of the State permit issued by FDER or a FWMD to the facility for the storm water associated with construction activities.

* * * * *

D. *Additional Notification.* Facilities which are operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans shall submit signed copies of the Notice of Intent to the State or local agency approving such plans in accordance with the deadlines in Part II.A of this permit (or sooner where required by State or local rules), in addition to submitting the Notice of Intent to EPA in accordance with paragraph II.C. Facilities which discharge storm water associated with construction activities to a municipal separate storm water system within Broward, Dade; Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk or Sarasota Counties shall submit a copy of the NOI to the operator of the municipal separate storm sewer system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities and Chapter 298 Special Districts shall also be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

* * * * *

3. Part III of the permit is revised to read as follows:

Part III. Special Conditions, Management Practices and Other Non-Numeric Limitations

A. *Prohibition on Non-Storm Water Discharges*

* * * * *

2.

* * * * * * * *

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph IV.D.5 and the storm water management system is designed to accept these discharges and provide treatment of the non-storm water component sufficient to meet Florida water quality standards: discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles or control dust in accordance with Part IV.D.2.c.(2); potable water sources including waterline flushing; irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents. Discharges resulting from ground water dewatering activities at construction sites are not covered by this permit. The applicant may seek coverage for these discharges under NPDES General Permit No. FLG830000, published on July 17, 1989 (54 FR 29986) and modified on August 29, 1991 (56 FR 42736).

* * * * *

4. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

B. Signature and Plan Review

* * * * *

2. The permittee shall submit plans to the State agency which issued the storm water permit and shall make plans available upon request to the Director; a state or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

* * * * *

C. Keeping Plans Current

The permittee shall amend the plan whenever there is change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States, including the addition of or change in location of storm water discharge points, and which has not otherwise been addressed in the plan or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.2 of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan (see Part IV.E). Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B above. Amendments to the

plan must be submitted to the State agency which issued the State storm water permit.

D. Contents of Plan

1. Site Description

* * * * *

d. An estimate of the runoff coefficient of the site before, during and after construction using "C" from the Rational Method, existing data describing the soil or the quality of any discharge from the site and an estimate of the size of the drainage area for each outfall;

* * * * *

2. Controls

Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each major activity identified in Part IV.D.1.b appropriate control measures and the timing during the construction process that the measures will be implemented. (For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization). All controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 17–40, Florida Administrative Code), the applicable storm water permitting requirements of the FDER or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDER, 1988) and any subsequent amendments. The description and implementation of controls shall address the following minimum components:

a. Erosion and sediment controls

(1) *stabilization practices.* A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the plan. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased.

(a) paragraph deleted
(b) paragraph deleted
(c) paragraph deleted

(2) *Structural Practices.* A description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site in accordance with the requirements set forth in Section 17–40, 420, F.A.C., and the applicable storm water regulations of the FDER or appropriate FWMD. Such practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices shall be placed on upland soils unless a State of Florida wetland resource management permit issued pursuant to Chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD authorize otherwise. The installation of these devices may be subject to Section 404 of the CWA.

* * * * *

b. *Storm water management.* A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. The description of controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 17–40, F.A.C.), the applicable storm water permitting regulations of the FDER or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDER, 1988), and any subsequent amendments. Structural measures shall be placed on upland soils unless a State of Florida wetland resource management permit issued pursuant to Chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD authorize otherwise. The installation of these devices may be subject to Section 404 of the CWA. This NPDES permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site. However, all storm water management systems shall be operated and maintained in perpetuity after final site stabilization in accordance with the requirements set forth in the State of Florida storm water permit issued for the site.

(1) Such practices may include: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). Pursuant to the requirements of section 17–40, 420, F.A.C., the storm water management system shall be designed to remove at least 80 percent of the average annual load of pollutants which cause or contribute to violations of water quality standards (95 percent if the system discharges to an Outstanding Florida Water). The pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.

(2) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel for the purpose of providing a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected. Equalization of the predevelopment and post-development storm water peak discharge rate and volume shall be a goal in the design of the post-development storm water management system.

c. Other controls

(1) *waste disposal.* No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a section 404 permit and by a State of Florida wetland resource management permit issued pursuant to chapters 373 or 403, F.S., and the applicable regulations of the FDER or FWMD.

* * * * *

(4) The plan shall address the proper application rates and methods for the use of fertilizers and pesticides at the

construction site and set forth how these procedures will be implemented and enforced.

* * * * *

4. *Inspections.* Qualified personnel (provided by the discharger) shall inspect all points of discharge into waters of the United States or to a municipal separate storm sewer system and all disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, storm water management systems, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.25 inches or greater. Where sites have been finally stabilized, or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches) such inspection shall be conducted at least once every month.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the storm water management system. The storm water management system and erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control and storm water management measures are effective in meeting the performance standards set forth in State Water Policy (chapter 17–40, F.A.C.) and the applicable storm water permitting regulations of the FDER or appropriate FWMD. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

* * * * *

5. Part VI of the permit is revised to read as follows:

Part VI. Standard Permit Conditions

* * * * *

O. Inspection and Entry

* * * * *

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameter at any location on the site.

* * * * *

6. Part VIII of the permit is revised to read as follows:

Part VIII. Termination of Coverage

* * * * *

C. *Additional Notification.* A copy of the Notice of Termination shall be sent to the State agency which issued the State storm water permit for the site and, if the storm water management system discharges to a municipal separate storm sewer system within Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk or Sarasota Counties, to the owner of that system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and chapter 298 Special Districts also shall be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

E. *American Samoa.* American Somoa 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region IX in American Samoa.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. Where to Submit

* * * * *

1. A copy of the NOI shall be submitted to American Samoa Environmental Protection Agency at the same time as submittal to the U.S. EPA.

3. The following paragraph is added to Part IV of the permit:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. Signature and Plan Review

* * * * *

4. All pollution prevention plans for storm water discharges in American Samoa shall be submitted to the American Samoa Environmental Protection Agency for review and approval.

F. *Guam.* Guam 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region IX in Guam.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. Where to Submit

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

2. A copy of the NOI also shall be submitted to appropriate Government of Guam agencies and the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911.

* * * * *

3. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. Signature and Plan Review

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit. A copy of the plan shall also be submitted to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911.

* * * * *

4. Part VI of the permit is revised to read:

Part VI. Monitoring and Reporting Requirements

* * * * *

D. Reporting: Where to Submit

1.

* * * * *

d. Signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office: United States EPA, Region IX, Water

Management Division, (W–5–1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, and to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 959911.

* * * * *

BILLING CODE 6560–50–M

Appendix C—NOI Form/Instructions

See Reverse for Instructions

Form Approved. OMB No. 2040-0088
Approval expires: 8-31-95

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity Under the NPDES General Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with industrial activity in the State identified in Section II of this form. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Facility Operator Information

Name: Phone:

Address: Status of Owner/Operator:

City: State: ZIP Code:

II. Facility/Site Location Information

Name: Is the Facility Located on Indian Lands? (Y or N)

Address:

City: State: ZIP Code:

Latitude: Longitude: Quarter: Section: Township: Range:

III. Site Activity Information

MS4 Operator Name:

Receiving Water Body:

If You are Filing as a Co-permittee, Enter Storm Water General Permit Number: Are There Existing Quantitative Data? (Y or N) Is the Facility Required to Submit Monitoring Data? (1, 2, or 3)

SIC or Designated Activity Code: Primary: 2nd: 3rd: 4th:

If This Facility is a Member of a Group Application, Enter Group Application Number:

If You Have Other Existing NPDES Permits, Enter Permit Numbers:

IV. Additional Information Required for Construction Activities Only

Project Start Date: Completion Date: Estimated Area to be Disturbed (in Acres): Is the Storm Water Pollution Prevention Plan in Compliance with State and/or Local Sediment and Erosion Plans? (Y or N)

V. Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: Date:

Signature: _____

EPA Form 3510-6 (8-92)

Instructions - EPA Form 3510-6
Notice Of Intent (NOI) For Storm Water Discharges Associated With Industrial Activity
To Be Covered Under The NPDES General Permit

Who Must File A Notice Of Intent (NOI) Form

Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with industrial activity to a water body(ies) of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the NPDES Storm Water General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a state agency, contact the Storm Water Hotline at (703) 821-4823.

Where To File NOI Form

NOIs must be sent to the following address:

Storm Water Notice of Intent
PO Box 1215
Newington, VA 22122

Completing The Form

You must type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, call the Storm Water Hotline at (703) 821-4823.

Section I Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility.

F = Federal M = Public (other than federal or state)
S = State P = Private

Section II Facility/Site Location Information

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code. If the facility or site lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Indicate whether the facility is located on Indian lands.

Section III Site Activity Information

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveying storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water.

If you are filing as a co-permittee and a storm water general permit number has been issued, enter that number in the space provided.

Indicate whether or not the owner or operator of the facility has existing quantitative data that represent the characteristics and concentration of pollutants in storm water discharges.

Indicate whether the facility is required to submit monitoring data by entering one of the following:

1 = Not required to submit monitoring data;
2 = Required to submit monitoring data;
3 = Not required to submit monitoring data; submitting certification for monitoring exclusion

Those facilities that must submit monitoring data (e.g., choice 2) are: Section 313 EPCRA facilities; primary metal industries; land disposal units/incinerators/BIFs; wood treatment facilities; facilities with coal pile runoff; and, battery reclaimers.

List, in descending order of significance, up to four 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section II of this application.

For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) that do not have SIC codes that accurately describe the principal products produced or services provided, the following 2-character codes are to be used:

HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26 (b)(14)(iv)];
LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26 (b)(14)(v)];
SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26 (b)(14)(vii)];
TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26 (b)(14)(ix)]; or,
CO = Construction activities [40 CFR 122.26 (b)(14)(x)].

If the facility listed in Section II has participated in Part 1 of an approved storm water group application and a group number has been assigned, enter the group application number in the space provided.

If there are other NPDES permits presently issued for the facility or site listed in Section II, list the permit numbers. If an application for the facility has been submitted but no permit number has been assigned, enter the application number.

Section IV Additional Information Required for Construction Activities Only

Construction activities must complete Section IV in addition to Sections I through III. Only construction activities need to complete Section IV.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

Section V Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing , production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Appendix D—NOT Form/Instructions

Please See Instructions Before Completing This Form

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-95

NPDES FORM

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number: ☐☐☐☐☐☐☐☐☐☐

Check Here if You are No Longer the Operator of the Facility: ☐

Check Here if the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ Phone: ☐☐☐☐☐☐☐☐☐☐

Address: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

City: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ State: ☐☐ ZIP Code: ☐☐☐☐☐☐☐☐☐

III. Facility/Site Location Information

Name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Address: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

City: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ State: ☐☐ ZIP Code: ☐☐☐☐☐☐☐☐☐

Latitude: ☐☐☐☐☐☐ Longitude: ☐☐☐☐☐☐☐ Quarter: ☐☐ Section: ☐☐ Township: ☐☐☐☐ Range: ☐☐☐☐

IV. Certification: I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ Date: ☐☐☐☐☐☐

Signature: _____

Instructions for Completing Notice of Termination (NOT) Form

Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under the EPA issued National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Dicharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26 (b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Where to File NOT Form

Send this form to the the following address:

Storm Water Notice of Termination
P.O. Box 1185
Newington, VA 22122

Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, call the Storm Water Hotline at (703) 821-4823.

PLEASE SEE REVERSE OF THIS FORM FOR FURTHER INSTRUCTIONS

EPA Form 3510-7 (8-92)

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, contact the Storm Water Hotline at (703) 821-4823.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing , production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[FR Doc. 92-23326 Filed 9-24-92; 8:45 am]
BILLING CODE 6560-50-C

federal register

Friday
September 25, 1992

Part IV

Environmental Protection Agency

Final NPDES General Permits for Storm Water Discharges Associated With Industrial Activity; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4511-1]

Final NPDES General Permits for Storm Water Discharges Associated With Industrial Activity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permits.

SUMMARY: The Regional Administrator of Regions I, II, III, and IX (the "Regions" or the "Directors") are today issuing final National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges associated with industrial activity (except discharges from construction activity) in Massachusetts, Puerto Rico, District of Columbia, Guam and American Samoa; on Indian lands in New York; and from Federal facilities in Delaware.

These general permits establish Notice of Intent (NOI) requirements, prohibitions, requirements to develop and implement storm water pollution prevention plans, and requirements to conduct site inspections for facilities with discharges authorized by the permit. In addition, these general permits establish monitoring requirements for certain classes of facilities and a numeric effluent limitation for discharges of coal pile runoff subject to the general permits.

DATES: These general permits shall be effective on September 25, 1992. This effective date is necessary to provide appropriate dischargers with the opportunity to comply with the October 1, 1992 deadline for submitting an NPDES application for storm water discharges associated with industrial by submitting a Notice of Intent (NOI) to be covered by the permits.

Deadlines for submittal of Notices of Intent (NOIs) are provided in part II.A of the general permits. Today's general permits also provide additional dates for compliance with the terms of the permit and for submitting monitoring data where required.

ADDRESSES: Notices of Intent to be authorized to discharge under these permits should be sent to: Storm Water Notices of Intent, PO Box 1215, Newington, VA 22122.

Other submittals of information required under these permits or individual permit applications should be sent to the appropriate EPA Regional Office. The addresses of the Regional Offices and the name and phone number of the Storm Water Regional Coordinator is provided in section II of the Fact Sheet.

The index to the administrative records for these permits is available at the appropriate Regional Office. The complete administrative record is located at EPA Headquarters, EPA Public Information Reference Unit, room 2402, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying. Specific record information will be made available at the appropriate Regional Office as requested.

FOR FURTHER INFORMATION CONTACT: For further information on the final NPDES general permits, contact the NPDES Storm Water Hotline at (703) 821-4823 or the appropriate EPA Regional Office. The name, address and phone number of the Regional Storm Water Coordinators are provided in Section II of the Fact Sheet.

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I. Introduction
II. Regional Contacts
III. Section 401 Certifications
IV. Economic Impact (Executive Order 12291)
V. Paperwork Reduction Act
VI. Regulatory Flexibility Act

I. Introduction

The Regional Administrators of the United States Environmental Protection Agency (EPA) are issuing final general permits for the majority of storm water discharges associated with industrial activity as follows:

Region I—For the State of Massachusetts.

Region II—For the Commonwealth of Puerto Rico and for Indian lands located in New York.

Region III—For the District of Columbia and for Federal Facilities in Delaware.

Region IX—For Guam and American Samoa.

On August 16, 1991, (56 FR 40948) EPA requested public comment on draft general permits forming the basis for today's final general permits. In addition to addressing those storm water discharges from industrial activity addressed in today's permits, the August 16, 1991, draft general permits addressed storm water discharges from construction activities. The permits in this notice only address storm water associated with industrial activity other than construction activities.

EPA received more than 330 comments on the August 16, 1991, draft general permits. In addition, public hearings to discuss the draft general permits were held in Dallas, TX; Oklahoma City, OK; Baton Rouge, LA; Albuquerque, NM; Seattle, WA; Boise, ID; Juneau, AK; Pierre, SD; Phoenix, AZ; Orlando, FL; Tallahassee, FL; Augusta, ME; Boston, MA; and Manchester, NH.

On September 9, 1992, (57 FR 41236), EPA published final National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges associated with industrial activity from construction sites in 11 States (Alaska, Arizona, Florida, Idaho, Louisiana, Maine, New Hampshire, New Mexico, Oklahoma, South Dakota, and Texas); the Territories of Johnston Atoll, and Midway and Wake Islands; on Indian lands in Alaska, Arizona, California, Colorado, Florida, Idaho, Maine, Massachusetts, Mississippi, Montana, New Hampshire, Nevada, North Carolina, North Dakota, Nevada, Utah, Washington, and Wyoming; from Federal facilities in Colorado, and Washington; and from Federal facilities and Indian lands in Louisiana, New Mexico, Oklahoma, and Texas.

EPA is incorporating portions of the detailed fact sheet for the general permit for storm water discharges associated with industrial activity (other than construction activity) published on September 9, 1992, as part of the final fact sheet and statement of basis for today's final permit. The sections of the fact sheet published on September 9, 1992 [1] being incorporated are section I, Introduction; Section II, Coverage of General Permits; Section III, Summary of Options for Controlling Pollutants; Section IV, Summary of Permit Conditions; and Section V, Cost Estimates; and Appendix A—Summary of Responses to Public Comments on the August 16, 1991, Draft General Permits.

Today's notice addresses final general permits for storm water discharges associated with industrial activity (except discharges from construction activity) in Massachusetts, Puerto Rico, District of Columbia, Guam and American Samoa; on Indian lands in New York; and from Federal facilities in Delaware. These permits may authorize the majority of storm water discharges associated with industrial activity to waters of the United States, including discharges through large and medium municipal separate storm sewer systems and through other municipal separate storm sewer systems. As discussed below, these permits do not authorize

[1] The September 9, 1992, fact sheets incorporate portions of the draft general permits published on August 16, 1991 (56 FR 40948). These portions of the August 16, 1991, fact sheets are also incorporated into today's permits. Sections of the August 16, 1991, fact sheet being incorporated are section 1, Background; section 4, Summary of Options for Controlling Pollutants; and section 5, The Federal/Municipal Partnership: The Role of Municipal Operators of Large and Medium Municipal Separate Storm Sewers.

storm water discharges associated with industrial activity from construction activities and several additional classes of storm water discharges.

Today's notice contains four appendices. Appendix A incorporates Appendix A—Summary of Responses to Public Comments on the August 16, 1991, Draft General Permits, of the September 9, 1992 permits. Appendix B provides the language of the final general permits. Except as provided in Part XI of the permits, Parts I through X apply to all permits. Part XI of the permit contains conditions which only apply to dischargers in the State indicated. Appendix C is a copy of the Notice of Intent (NOI) form (and associated instructions) for dischargers to obtain coverage under the general permits. Appendix D is a copy of the Notice of Termination (NOT) form (and associated instructions) that can be used by dischargers wanting to notify EPA that their storm water discharges associated with industrial activity have been terminated or that the permittee has transferred operation of the facility.

II. Regional Contacts

Notices of Intent to be authorized to discharge under these permits must be sent to: Storm Water Notices of Intent, PO Box 1215, Newington, VA 22122.

Other submittals of information required under these permits or individual permit applications or other written correspondence concerning discharges in any State, Indian land, or from any Federal facility covered, should be sent to the appropriate EPA Regional Office listed below:

Massachusetts

United States EPA, Region I—Water Management Division, (WCP-2109), Storm Water Staff, John F. Kennedy Federal Building, Room 2209, Boston, MA 02203, Contact: Veronica Harrington, (617) 565-3525.

New York (Indian lands), Puerto Rico

United States EPA, Region II—Water Management Division, (2WM-WPC), Storm Water Staff, 26 Federal Plaza, New York, NY 10278, Contact: Jose Rivera, (212) 264-2911.

District of Columbia, Delaware (Federal facilities)

United States EPA, Region III—Water Management Division, (3WM55), 841 Chestnut Building, Philadelphia, PA 19107, Contact: Kevin Magerr, (215) 597-1651.

Guam and American Samoa

United States EPA, Region IX—Water Management Division, (W-5-1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, Contact: Eugene Bromley, (415) 744-1906.

III. 401 Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The section 401 certification process has been completed for all States, Indian lands and Federal facilities covered by today's general permits. The following summary indicates where additional permit requirements have been added as a result of the certification process and also provides a more detailed discussion of additional requirements for Massachusetts, Florida, and Puerto Rico.

Massachusetts

See the following and part X.A of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the Commonwealth of Massachusetts required inclusion of the following conditions necessary to ensure compliance with State water quality concerns.

Storm water discharges not eligible for coverage under this permit include new or increased storm water discharges to coastal water segments within Massachusetts designated as "Areas of Critical Environmental Concern (ACEC)" (for information on ACEC, please contact the Executive Office of Environmental Affairs, Coastal Zone Management at (617) 727-9350). In addition, new or increased discharges, as defined at 314 CMR 4.02(19), which meet the definition of "storm water discharge," as defined at 314 CMR 3.04(2)(a)(1) or (2)(b), to Outstanding Resource Waters which have not met the provisions of 314 CMR 4.04(3) and part III C.1 of this permit (as amended by the special requirements for discharges in Massachusetts), are not eligible for coverage under this permit.

Permittees in Massachusetts are to submit NOIs to the following address: Storm Water Staff, Storm Water Notice of Intent, US EPA Region 1, MA, PO Box 1215, Newington, VA 22122. A copy of the NOI for all discharges to Outstanding Resource Waters shall be submitted to the Commonwealth of Massachusetts at the following address: Massachusetts Department of Environmental Protection, Storm Water Notice of Intent, BRP—WP 43, PO Box 4062, Boston, Massachusetts, 02211.

For details on filing for permits with MA DEP see 310 CMR 4.00, Timely Action Schedule and Fee Provisions. For other information call the MA DEP Information Services at (617) 338-2255 or the Technical Services Section of the DEP Division of Water Pollution Control at (508) 792-7470.

Massachusetts 401 certification requires the following best management practices. Storm water discharge outfall pipes to Outstanding Resource Waters shall be removed and the discharge set back from the receiving water when dischargers are seeking to increase the discharge or change the site drainage system; all new discharge outfalls must be set back from the receiving water. Receiving swales for outfall pipes shall be prepared to minimize erosion and maximize infiltration prior to discharge. The goal is to infiltrate as much as feasible; infiltration trenches and basins, filter media dikes and/or other BMPs shall be used to meet the goal. Protecting Water Quality in Urban Areas by the Minnesota Pollution Control Agency, Division of Water Quality is a reference for BMPs.

Storm water discharges to waters that are not classified as Outstanding Resource Waters shall be subject to the requirements of this permit. New discharge outfall pipes shall be designed to be set back from the receiving water when site conditions allow. For existing discharge outfall pipes, when the storm water drainage system is undergoing changes, outfall pipes shall be set back from the receiving water. A receiving swale, infiltration trench or basin, filter media dike or other BMP should be prepared with the goal to minimize erosion yet maximize infiltration or otherwise improve water quality prior to discharge.

All discharges to Outstanding Resource Waters authorized under this permit must be provided the best practical method of treatment to protect and maintain the designated use of the outstanding resource.

Delaware

See the following discussion and part X.C of the general permit for additional 401 conditions. As a condition for certification under section 401 of the CWA, the State of Delaware required inclusion of the following conditions necessary to insure compliance with State water quality concerns.

In addition to submitting all NOIs to the central NOI receiving office in Newington, VA, permittees in Delaware also must submit a copy of all NOIs to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control,

89 Kings Highway, P.O. Box 140, Dover, DE 19903. All Discharge Monitoring Reports (DMRs), pollution prevention plans, as well as subsequent revisions, must be submitted to the State of Delaware at this same address. DMRs also must be submitted to the NPDES Programs Director, U.S. EPA Region III, Water Management Division (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107.

Commonwealth of Puerto Rico

See the following discussion and part X.B of the general permit for additional 401 conditions.

The Environmental Quality Board (EQB) of Puerto Rico issued on September 14, 1992 the General Water Quality Certificate (GWQC) in accordance with section 401 of the Clean Water Act for storm water discharges associated with industrial activity. This action was taken in response to the Region II Environmental Protection Agency's certification request of November 1, 1991.

The EQB's draft GWQC incorporated special conditions that must be met by all storm water discharges associated with industrial activity. A public notice was prepared including a notification to interested parties about the intention to issue a GWQC. The public notice provided a thirty (30) day public comment period. In addition, a public hearing was held on July 21, 1992.

The special conditions included in the GWQC are intended to assure that the general permit applicant will comply with the applicable requirements of the Commonwealth of Puerto Rico Law and sections 301(b)(1)(c) and 401(d) of the Clean Water Act. The GWQC contains, among others, the following special conditions:

- Quarterly Monitoring shall be performed. Parameters to be sampled are the following: a) For the industries identified in the final general permit applicable to Puerto Rico, the parameters established for each specific industry; and b) For all other industries, the parameters are: oil and grease, pH, biochemical oxygen demand, chemical oxygen demand, total suspended solids, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite as nitrogen, and any pollutant limited in an effluent guideline to which the process wastewater stream at the facility is subject.
- Monitoring results must be submitted quarterly.
- If the construction of any treatment system for waters composed entirely of storm water is necessary, the permittee shall obtain the approval of the engineering report, plans and specifications from the EQB.
- The permittee shall operate all air pollution control equipment in compliance with the applicable provisions of the Regulation for the Control of Atmospheric Pollution, as amended, to avoid water pollution as a result of air pollution fallout.
- The permittee should install a rain gauge and keep daily records of the rain.
- Within 180 days of submitting the Notice of Intent (NOI), existing dischargers shall submit a Certification stating that the Storm Water Pollution Prevention Plan was developed.
- One year after submitting the NOI, existing dischargers shall submit a certification pertaining to the implementation of the Storm Water Pollution Prevention Plan.
- Within thirty (30) days of submission of the NOI, new dischargers shall submit a certification stating that the Storm Water Pollution Prevention Plan has been developed and implemented.
- The Storm Water Pollution Prevention Plan should be reviewed at least once every three (3) years to determine the need to update the Plan.
- Within forty-five (45) days after the effective date of the permit, the permittee shall submit to EQB with a copy to the EPA, the number of storm water discharges covered by this permit and a drawing indicating the drainage area of each storm water discharge and its respective sampling point.
- The discharges shall not cause the presence of an oil sheen in the receiving body of water.
- The storm water discharges associated with industrial activity will not cause a violation of the applicable water quality standards.

EPA has incorporated the terms of the EQB GWQC into the final general permit for Puerto Rico (PR) as described in Part XI of the general permit. A number of the EQB Conditions have simply been added to EPA's general permit (e.g., the condition that the discharge not cause presence of an oil sheen; the requirement for rain gauge; the requirement for EQB approval of plans and specifications, etc.)

A number of changes and additions are specified for part IV, Storm Water pollution Prevention Plans, in order to incorporate the EQB requirements regarding certification of the development and implementation of the Plans, and to ensure that the specific time periods specified by EQB were included.

In certain instances, conditions in EPA's general permit were expanded slightly in order to incorporate more detailed and specific EQB requirements (e.g. Part VII.O., Proper Operation and Maintenance, expansion of EPA's condition to include adequate funding, effective management, qualified operator staffing, etc.)

Review and appeals of special conditions attributable to the GWQC shall be made through the applicable procedures of the Commonwealth of Puerto Rico and may not be through EPA procedures. Copies of the GWQC may be obtained by writing to the EQB, P.O. Box 11488, Santurce, Puerto Rico, 00910, or by calling at (809) 767-8181.

Delaware (Federal facilities)

See the following and part XI.C of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the State of Delaware required inclusion of the following conditions necessary to ensure compliance with State water quality concerns.

In addition to submitting all NOIs to the central NOI receiving office in Newington, VA, permittees in Delaware also must submit a copy of all NOIs to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 140, Dover, DE 19903. All Discharge Monitoring Reports (DMRs), pollution prevention plans, as well as subsequent revisions, also must be submitted to the State of Delaware at this same address.

In addition to the site inspection requirements discussed at part IV(D)(3)(d) of this permit, Delaware federal facilities shall conduct monthly inspections in areas where significant materials are stored to determine the exposure of such materials to storm water runoff. Where the permittee determines that exposure of significant materials to storm water has occurred, the storm water pollution prevention plan shall be amended appropriately to eliminate or reduce the exposure. Also, permittees must inspect all structural controls after every rainfall event to confirm that these controls are operating properly. If any structural control is not operating properly, the permittee must correct this situation or develop a time frame for its correction. Records of all inspections, amendments to the storm water pollution prevention plan and corrective actions must be maintained.

In addition to meeting the annual monitoring requirements for airports presented in EPA's baseline general permit, the special conditions for federal facilities in Delaware require that all

Federal airport facilities in the State of Delaware, not just airports with over 50,000 flight operations per year, sample for Total Petroleum Hydrocarbons (mg/L).

Applicants are required to obtain a certification of consistency with the Delaware Coastal Management Program (CZMA 1972, 16 U.S.C. 1451).

District of Columbia

See the following and part XI.D of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the District of Columbia required inclusion of the following conditions necessary to ensure compliance with water quality concerns.

All Federal facility permittees covered under this permit must meet all applicable District of Columbia laws. The Director may notify any permittee that additional control measures are required in order to achieve the 40 percent reduction in nitrogen and phosphorus entering the main stem of the Chesapeake Bay by the year 2000, as mandated by the 1987 Chesapeake Bay Agreement.

Any discharge composed of coal pile runoff shall not exceed a maximum concentration for any time of 50 mg/l total suspended solids. Coal pile runoff shall not be diluted with storm water from other portions of the site or other flows in order to meet this limitation. The pH of such discharges shall be within the range of 6.0–8.5. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff which is associated with a 10 year, 24 hour rainfall event shall not be subject to the 50 mg/l limitation for total suspended solids. Failure to demonstrate compliance with these limitations as expeditiously as practicable, but in no case later than October 1, 1995, will constitute a violation of this permit.

In addition to submitting the following to United States EPA Region III Office (as provided in parts I through X), signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the District of Columbia at the following address: Government of the District of Columbia, Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, 2100 Martin Luther King, Jr. Avenue SE., Washington, DC 20020.

American Samoa

See the following and part XI.E of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the territory of American Samoa required inclusion of the following special conditions.

Permittees must submit a copy of all NOIs and pollution prevention plans to the American Samoa Environmental Protection Agency.

Guam

See the following and part XI.F of the general permit for 401 conditions. As a condition for certification under section 401 of the CWA, the territory of Guam required inclusion of the following special conditions.

Permittees must submit a copy of all NOIs to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911, and to other appropriate Government of Guam agencies. All pollution prevention plans and discharge monitoring reports (DMRs) also must be submitted to Guam EPA.

IV. Economic Impact (Executive Order 12291)

EPA has submitted this notice to the Office of Management and Budget for review under Executive Order 12291.

V. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these final general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq. EPA did not prepare an Information Collection Request (ICR) document for today's permits because the information collection requirements in these permits have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, U.S.C. 601 et. seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No Regulatory Flexibility Analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permits provide small entities with an application option that is less burdensome than individual applications or participating in a group application. The other requirements have been designed to minimize significant economic impacts of the rule on small entities and does not have a significant impact on industry. In addition, the permits reduce significant administrative burdens on regulated sources. Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: September 17, 1992.

Paul Keough,

Acting Regional Administrator, Region I.

Dated: September 16, 1992.

Constantine Sidamon-Eristoff,

Regional Administrator, Region II.

Dated: September 11, 1992.

A.R. Morris,

Acting Regional Administrator, Region III.

Dated: September 16, 1992.

John Wise,

Regional Administrator, Region IX.

Appendix A—Summary of Responses to Public Comments on the August 16, 1991, Draft General Permits

The summary of responses to Public Comment on the August 16, 1991, draft general permits presented in appendix A of the September 9, 1992 final general permits at 57 FR 41257, is hereby incorporated in appendix A of today's notice.

Appendix B—NPDES General Permits for Storm Water Discharges Associated with Industrial Activity

[Permit No. MAR000000]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et. seq; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges associated with industrial activity, located in the State of Massachusetts, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges associated with industrial activity within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 17th day of September 1992.

Larry Brill,

Acting Director, Water Management Division.

This signature is for the permit conditions in parts I through X and for any additional conditions in part XI which apply to facilities located in the State of Massachusetts.

[NPDES Permit No. NYR00000F]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges "associated with industrial activity", located on Indian Lands in New York State are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 3rd day of September 1992.

Richard L. Caspe, P.E.,

Director, Water Management Division, U.S. Environmental Protection Agency, Region II.

[NPDES Permit No. PRR000000]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the Act), except as provided in part I.B.3 of this permit, operators of storm water discharges "associated with industrial activity", located in the Commonwealth of Puerto Rico are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September 1992.

Richard L. Caspe, P.E.,

Director, Water Management Division, U.S. Environmental Protection Agency, Region II.

This signature is for the permit conditions in Parts I through X and for any additional conditions in Part XI which apply to facilities located in the Commonwealth of Puerto Rico.

[Permit No. DC R000000]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges associated with industrial activity, located in the District of Columbia, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges associated with industrial activity within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September, 1992.

A. R. Morris,

Water Management Director or Regional Administrator.

[Permit No. DE R000000F (for permits that are only for Indian lands and/or Fed. fac)]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges associated with industrial activity, located in Federal Facilities in the state of Delaware, are authorized to discharge in accordance with the conditions and requirements set fourth herein.

Operators of storm water discharges associated with industrial activity within the general permit area who intend to be authorized by these permits must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September, 1992

A.R. Morris,

Water Management Director or Regional Administrator.

Storm Water General Permit for Industrial Activity (Excluding Construction Activities)

[Permit No. GUR000000]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. . . 1251 et. seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges associated with industrial activity (excluding construction activity), located on the Island of Guam are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges associated with industrial activity within the general permit area who intend to be authorized by this permit must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 25, 1997.

Signed and issued this 16th day of September, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through X and for any additional conditions in Part XI which apply to facilities located on the Island of Guam.

Storm Water General Permit for Industrial Activity (Excluding Construction Activities)

[Permit No. ASR000000]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (U.S.C. * * * 1251 et seq.; the Act), except as provided in Part I.B.3 of this permit, operators of storm water discharges associated with industrial activity (excluding construction activity), located on American Samoa are authorized to discharge in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges associated with industrial activity within the general permit area who intend to be authorized by this permit must submit a Notice of Intent in accordance with Part II of this permit. Operators of storm water discharges associated with industrial activity who fail to submit a Notice of Intent in accordance with Part II of this permit are not authorized under this general permit.

This permit shall become effective on September 25, 1992.

This permit and the authorization to discharge shall expire at midnight, September 27, 1992.

Signed and issued this 16th day of September, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

This signature is for the permit conditions in Parts I through IX and for any additional conditions in Part XI which apply to facilities located on American Samoa.

NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

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Preface

The CWA provides that storm water discharges associated with industrial activity from a point source (including discharges through a municipal separate storm sewer system) to waters of the United States are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The terms "storm water discharge associated with industrial activity", "point source" and "waters of the United States" are critical to determining whether a facility is subject to this requirement. Complete definitions of these terms are found in the definition section (Part X) of this permit. In order to determine the applicability of the requirement to a particular facility, the facility operator must examine its activities in relationship to the eleven categories of industrial facilities described in the definition of "storm water discharge associated with industrial activity".

Category (xi) of the definition, which addresses facilities with activities classified under Standard Industrial Classifications (SIC) codes 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 31 (except 311), 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and which are not otherwise included within categories (i)–(x)), differs from other categories listed in that it only addresses storm water discharges where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery *are exposed to storm water.*[2]

The United States Environmental Protection Agency (EPA) has established the Storm Water Hotline at (703) 821–4823 to assist the Regional Offices in distributing notice of intent forms and storm water pollution prevention plan guidance, and to provide information pertaining to the NPDES storm water regulations.

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas of:

[2] On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion of manufacturing facilities in category (xi) which do not have materials or activities exposed to storm water to the EPA for further rulemaking. (*Natural Resources Defense Council* v. *EPA*, Nos. 90–70671 and 91–70200).

Region I—the State of Massachusetts.
Region II—Puerto Rico and Indian lands in New York.
Region III—the District of Columbia and Federal facilities in the State of Delaware.
Region IX—American Samoa and Guam.

B. *Eligibility.*

1. This permit may cover all new and existing point source discharges of storm water associated with industrial activity to waters of the United States, except for storm water discharges identified under paragraph I.B.3.

2. This permit may authorize storm water discharges associated with industrial activity that are mixed with storm water discharges associated with industrial activity from construction activities provided that the storm water discharge from the construction activity is in compliance with the terms, including applicable notice of intent (NOI) or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

3. *Limitations on Coverage.* The following storm water discharges associated with industrial activity are not authorized by this permit:

a. Storm water discharges associated with industrial activity that are mixed with sources of non-storm water other than non-storm water discharges that are:

(i) In compliance with a different NPDES permit; or

(ii) Identified by and in compliance with Part III.A.2 (authorized non-storm water discharges) of this permit.

b. Storm water discharges associated with industrial activity which are subject to an existing effluent limitation guideline addressing storm water (or a combination of storm water and process water) [3];

c. Storm water discharges associated with industrial activity that are subject to an existing NPDES individual or general permit; are located at a facility where an NPDES permit has been terminated or denied; or which are issued in a permit in accordance with paragraph VII.M (requirements for individual or alternative general permits) of this permit. Such discharges may be authorized under this permit after an existing permit expires provided the existing permit did not establish numeric limitations for such discharges;

d. Storm water discharges associated with industrial activity from construction sites, except storm water discharges from portions of a construction site that can be classified as an industrial activity under 40 CFR 122.26(b)(14) (i) through (ix) or (xi) (including storm water discharges from mobile asphalt plant, and mobile concrete plants);

e. Storm water discharges associated with industrial activity that the Director (EPA) has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard;

f. Storm water discharges associated with industrial activity that may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat; and

g. Storm water discharges associated with industrial activity from inactive mining, inactive landfills, or inactive oil and gas operations occurring on Federal lands where an operator cannot be identified.

4. Storm water discharges associated with industrial activity which are authorized by this permit may be combined with other sources of storm water which are not classified as associated with industrial activity pursuant to 40 CFR 122.26(b)(14), so long as the discharger is in compliance with this permit.

C. *Authorization.*

1. Dischargers of storm water associated with industrial activity must submit a Notice of Intent (NOI) in accordance with the requirements of Part II of this permit, using a NOI form provided by the Director (or photocopy thereof), to be authorized to discharge under this general permit.[4]

2. Unless notified by the Director to the contrary, owners or operators who submit such notification are authorized to discharge storm water associated with industrial activity under the terms and conditions of this permit 2 days after the date that the NOI is postmarked.

3. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

Part II. Notice of Intent Requirements

A. *Deadlines for Notification.*

1. Except as provided in paragraphs II.A.4 (rejected or denied municipal group applicants), II.A.5 (new operator) and II.A.6 (late NOIs), individuals who intend to obtain coverage for an existing storm water discharge associated with industrial activity under this general permit shall submit a Notice of Intent (NOI) in accordance with the requirements of this part on or before October 1, 1992;

2. Except as provided in paragraphs II.A.3 (oil and gas operations), II.A.4 (rejected or denied municipal group applicants), II.A.5 (new operator), and II.A.6 (late NOI) operators of facilities which begin industrial activity after October 1, 1992 shall submit a NOI in accordance with the requirements of this part at least 2 days prior to the commencement of the industrial activity at the facility;

3. Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of October 1, 1992 in accordance with 40 CFR 122.26(c)(1)(iii), but that after October 1, 1992 have a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6, must submit a NOI in accordance with the requirements of Part II.C of this permit within 14 calendar days of the first knowledge of such release.

4. Storm water discharges associated with industrial activity from a facility that is owned or operated by a municipality that has participated in a timely Part 1 group application and where either the group application is rejected or the facility is denied participation in the group application by EPA, and that are seeking coverage under this general permit shall submit a NOI in accordance with the requirements of this part on or before the 180th day following the date on which the group is rejected or the denial is made, or October 1, 1992, whichever is later.

5. Where the operator of a facility with a storm water discharge associated with industrial activity which is covered by this permit changes, the new operator of the facility must submit an NOI in accordance with the requirements of this part at least 2 days prior to the change.

6. An operator of a storm water discharge associated with industrial activity is not precluded from submitting

[3] For the purpose of this permit, the following effluent limitation guidelines address storm water (or a combination of storm water and process water): cement manufacturing (40 CFR 411); feedlots (40 CFR 412); fertilizer manufacturing (40 CFR 418); petroleum refining (40 CFR 419); phosphate manufacturing (40 CFR 422); steam electric (40 CFR 423); coal mining (40 CFR 434); mineral mining and processing (40 CFR 436); ore mining and dressing (40 CFR 440); and asphalt emulsion (40 CFR 443 Subpart A). This permit may authorize storm water discharges associated with industrial activity which are not subject to an effluent limitation guideline even where a different storm water discharge at the facility is subject to an effluent limitation guideline.

[4] A copy of the approved NOI form is provided in Appendix C of this notice.

an NOI in accordance with the requirements of this part after the dates provided in Parts II.A.1, 2, 3, or 4 (above) of this permit. In such instances, EPA may bring appropriate enforcement actions.

B. *Contents of Notice of Intent.* The Notice of Intent shall be signed in accordance with Part VII.G (signatory requirements) of this permit and shall include the following information:

1. The street address of the facility for which the notification is submitted. Where a street address for the site is not available, the location of the approximate center of the facility must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products or for hazardous waste treatment, storage or disposal facilities, land disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage, a narrative identification of those activities;

3. The operator's name, address, telephone number, and status as Federal, State, private, public or other entity;

4. The permit number(s) of additional NPDES permit(s) for any discharge(s) (including non-storm water discharges) from the site that are currently authorized by an NPDES permit;

5. The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s) for the discharge through the municipal separate storm sewer;

6. An indication of whether the owner or operator has existing quantitative data describing the concentration of pollutants in storm water discharges (existing data should not be included as part of the NOI);

7. Where a facility has participated in Part 1 of an approved storm water group application, the number EPA assigned to the group application shall be supplied; and

8. For any facility that begins to discharge storm water associated with industrial activity after October 1, 1992, a certification that a storm water pollution prevention plan has been prepared for the facility in accordance with Part IV of this permit. (A copy of the plan should not be included with the NOI submission).

C. *Where to Submit.* Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

D. *Additional Notification.* Facilities which discharge storm water associated with industrial activity through large or medium municipal separate storm sewer systems (systems located in an incorporated city with a population of 100,000 or more, or in a county identified as having a large or medium system (see definition in Part X of this permit and Appendix E of this notice)) shall, in addition to filing copies of the Notice of Intent in accordance with paragraph II.D, also submit signed copies of the Notice of Intent to the operator of the municipal separate storm sewer through which they discharge in accordance with the deadlines in Part II.A (deadlines for notification) of this permit.

E. *Renotification.* Upon issuance of a new general permit, the permittee is required to notify the Director of their intent to be covered by the new general permit.

Part III. Special Conditions

A. *Prohibition on non-storm water discharges.*

1. Except as provided in paragraph III.A.2 (below), all discharges covered by this permit shall be composed entirely of storm water.

2. a. Except as provided in paragraph III.A.2.b (below), discharges of material other than storm water must be in compliance with a NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph IV.D.3.g.(2) (measures and controls for non-storm water discharges): discharges from fire fighting activities; fire hydrant flushings; potable water sources including waterline flushings; irrigation drainage; lawn watering; routine external building washdown which does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. *Releases in excess of Reportable Quantities.*

1. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR part 117 and 40 CFR part 302. Except as provided in paragraph III.B.2 (multiple anticipated discharges) of this permit, where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

a. The discharger is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC metropolitan area 202–426–2675) in accordance with the requirements of 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

b. The storm water pollution prevention plan required under part IV (storm water pollution prevention plans) of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed by the permittee to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate; and

c. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with paragraph III.B.1.b (above) of this permit to the appropriate EPA Regional Office at the address provided in part VI.D.1.d (reporting: where to submit) of this permit.

2. *Multiple Anticipated Discharges*—Facilities which have more than one anticipated discharge per year containing the same hazardous substance in an amount equal to or in excess of a reportable quantity established under either 40 CFR 117 or 40 CFR 302, which occurs during a 24 hour period, where the discharge is caused by events occurring within the

scope of the relevant operating system shall:

a. Submit notifications in accordance with part III.B.1.b (above) of this permit for the first such release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

b. Shall provide in the storm water pollution prevention plan required under part IV (storm water pollution prevention plan) a written description of the dates on which all such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the release. In addition, the plan must be reviewed to identify measures to prevent or minimize such releases and the plan must be modified where appropriate.

3. *Spills.* This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

Part IV. Storm Water Pollution Prevention Plans

A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices and in accordance with the factors outlined in 40 CFR 125.3(d) (2) or (3) as appropriate. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

A. *Deadlines for Plan Preparation and Compliance.*

1. Except as provided in paragraphs IV.A.3 (oil and gas operations), 4 (facilities denied or rejected from participation in a group application), 5 (special requirements), and 6 (later dates) the plan for a storm water discharge associated with industrial activity that is existing on or before October 1, 1992:

a. Shall be prepared on or before April 1, 1993 (and updated as appropriate);

b. Shall provide for implementation and compliance with the terms of the plan on or before October 1, 1993;

2. a. The plan for any facility where industrial activity commences after October 1, 1992, but on or before December 31, 1992 shall be prepared, and except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit on or before the date 60 calendar days after the commencement of industrial activity (and updated as appropriate);

b. The plan for any facility where industrial activity commences on or after January 1, 1993 shall be prepared, and except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit, on or before the date of submission of a NOI to be covered under this permit (and updated as appropriate);

3. The plan for storm water discharges associated with industrial activity from an oil and gas exploration, production, processing, or treatment operation or transmission facility that is not required to submit a permit application on or before October 1, 1992 in accordance with 40 CFR 122.26(c)(1)(iii), but after October 1, 1992 has a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6, shall be prepared and except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit on or before the date 60 calendar days after the first knowledge of such release (and updated as appropriate);

4. The plan for storm water discharges associated with industrial activity from a facility that is owned or operated by a municipality that has participated in a timely group application where either the group application is rejected or the facility is denied participation in the group application by EPA,

a. Shall be prepared on or before the 365th day following the date on which the group is rejected or the denial is made, (and updated as appropriate);

b. Except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit on or before the 545th day following the date on which the group is rejected or the denial is made; and

5. Portions of the plan addressing additional requirements for storm water discharges from facilities subject to Parts IV.D.7 (EPCRA Section 313 and IV.D.8 (salt storage) shall provide for compliance with the terms of the requirements identified in Parts IV.D.7 and IV.D.8 as expeditiously as practicable, but except as provided below, not later than either October 1, 1995. Facilities which are not required to report under EPCRA Section 313 prior to July 1, 1992, shall provide for compliance with the terms of the requirements identified in Parts IV.D.7 and IV.D.8 as expeditiously as practicable, but not later than three years after the date on which the facility is first required to report under EPCRA Section 313. However, plans for facilities subject to the additional requirements of Part IV.D.7 and IV.D.8, shall provide for compliance with the other terms and conditions of this permit in accordance with the appropriate dates provided in Part IV.1, 2, 3, or 5 of this permit.

6. Upon a showing of good cause, the Director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a NOI in accordance with Part II.A.2 (deadlines for notification—new dischargers) of this permit (and updated as appropriate).

B. *Signature and Plan Review*

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit.

2. The permittee shall make plans available upon request to the Director, or authorized representative, or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system, to the operator of the municipal system.

3. The Director, or authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, other permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

C. *Keeping Plans Current.* The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under

Part IV.D.2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B (above).

D. *Contents of Plan.* The plan shall include, at a minimum, the following items:

1. *Pollution Prevention Team*—Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. *Description of Potential Pollutant Sources.* Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

a. *Drainage.*

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part IV.D.2.c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. *Inventory of Exposed Materials.* An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of the issuance of this permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of the issuance of this permit and the present; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

c. *Spills and Leaks.* A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the effective date of this permit. Such list shall be updated as appropriate during the term of the permit.

d. *Sampling Data.* A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. *Risk Identification and Summary of Potential Pollutant Sources.* A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g. biochemical oxygen demand, etc.) of concern shall be identified.

3. *Measures and Controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. *Good Housekeeping*—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

b. *Preventive Maintenance*—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g. cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

c. *Spill Prevention and Response Procedures*—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. *Inspections*—In addition to or as part of the comprehensive site evaluation required under Part IV.4 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. *Employee Training*—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material

management practices. A pollution prevention plan shall identify periodic dates for such training.

f. *Recordkeeping and Internal Reporting Procedures*—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. *Non-Storm Water Discharges*—

(1) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the on-site drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part VI.A (failure to certify) of this permit.

(2) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (authorized non-storm water discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

h. *Sediment and Erosion Control*—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

i. *Management of Runoff*—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Parts IV.D.2. (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. *Comprehensive Site Compliance Evaluation.* Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, except as provided in paragraph IV.D.4.d (below), in no case less than once a year. Such evaluations shall provide:

a. Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with Part IV.D.2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph IV.D.3 (measures and controls) of this permit shall be revised as appropriate within two weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than twelve weeks after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph IV.D.4.b (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least one year after coverage under this permit terminates. The report shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G (signatory requirements) of this permit.

d. Where annual site inspections are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in three years.

5. *Additional requirements for storm water discharges associated with industrial activity through municipal separate storm sewer systems serving a population of 100,000 or more.*

a. In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under NPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the discharger has been notified of such conditions.

b. Permitters which discharge storm water associated with industrial activity through a municipal separate storm sewer system serving a population of 100,000 or more shall make plans available to the municipal operator of the system upon request.

6. *Consistency with other plans.* Storm water pollution prevention plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit for the facility as long as such

requirement is incorporated into the storm water pollution prevention plan.

7. *Additional requirements for storm water discharges associated with industrial activity from facilities subject to EPCRA Section 313 requirements.* In addition to the requirements of Parts IV.D. 1 through 4 of this permit and other applicable conditions of this permit, storm water pollution prevention plans for facilities subject to reporting requirements under EPCRA Section 313 for chemicals which are classified as 'section 313 water priority chemicals' in accordance with the definition in Part X of this permit, shall describe and ensure the implementation of practices which are necessary to provide for conformance with the following guidelines:

a. In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided. At a minimum, one of the following preventive systems or its equivalent shall be used:

(1) Curbing, culverting, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water run-on to come into contact with significant sources of pollutants; or

(2) Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water, and wind.

b. In addition to the minimum standards listed under Part IV.D.7 a (above) of this permit, the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution prevention procedures and applicable State rules, regulations and guidelines:

(1) *Liquid storage areas where storm water comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals.*

(a) No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

(b) Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

(2) *Material storage areas for Section 313 water priority chemicals other than liquids.* Material storage areas for Section 313 water priority chemicals other than liquids which are subject to runoff, leaching, or wind shall incorporate drainage or other control features which will minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with Section 313 water priority chemicals.

(3) *Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals.* Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 water priority chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: The placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

(4) *Areas where Section 313 water priority chemicals are transferred, processed or otherwise handled.* Processing equipment and materials handling equipment shall be operated so as to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

(5) *Discharges from areas covered by paragraphs (1), (2), (3) or (4).*

(a) Drainage from areas covered by paragraphs (1), (2), (3) or (4) of this part should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

(b) Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design.

(c) If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

(d) Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

(6) *Facility site runoff other than from areas covered by (1), (2), (3) or (4).* Other areas of the facility (those not addressed in paragraphs (1), (2), (3) or (4)), from which runoff which may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

(7) *Preventive maintenance and housekeeping.* All areas of the facility shall be inspected at specific intervals identified in the plan for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures which could cause a discharge. Inspection shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered which may result in significant releases of Section 313 water priority chemicals to waters of the United States, action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to waters of the United States shall be immediately taken or the unit or process shut down until such action can be taken. When a

leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, State, and local requirements and as described in the plan.

(8) *Facility security.* Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

(9) *Training.* Facility employees and contractor personnel that work in areas where Section 313 water priority chemicals are used or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year, in matters of pollution control laws and regulations, and in the storm water pollution prevention plan and the particular features of the facility and its operation which are designed to minimize discharges of Section 313 water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

(10) *Engineering Certification.*—The storm water pollution prevention plan for a facility subject to EPRCA Section 313 requirements for chemicals which are classified as "Section 313 water priority chemicals" shall be reviewed by a Registered Professional Engineer and certified to by such Professional Engineer. A Registered Professional Engineer shall recertify the plan every three years thereafter or as soon as practicable after significant modification are made to the facility. By means of these certifications the engineer, having examined the facility and being familiar with the provisions of this part, shall attest that the storm water pollution prevention plan has been prepared in accordance with good engineering practices. Such certifications shall in no way relieve the owner or operator of a facility covered by the plan of their duty to prepare and fully implement such plan.

8. *Additional Requirements for Salt Storage.*

Storage piles of salt used for deicing or other commercial or industrial purposes and which generate a storm water discharge associated with industrial activity which is discharged to waters of the United States shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than October 1, 1995. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States.

Part V. Numeric Effluent Limitations

A. *Coal Pile Runoff.* Any discharge composed of coal pile runoff shall not exceed a maximum concentration for any time of 50 mg/1 total suspended solids. Coal pile runoff shall not be diluted with storm water or other flows in order to meet this limitation. The pH of such discharges shall be within the range of 6.0–9.0. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff which is associated with a 10 year, 24 hour rainfall event shall not be subject to the 50 mg/1 limitation for total suspended solids. Failure to demonstrate compliance with these limitations as expeditiously as practicable, but in no case later than October 1, 1995, will constitute a violation of this permit.

Part VI. Monitoring and Reporting Requirements

A. *Failure to Certify.*—Any facility that is unable to provide the certification required under paragraph IV.D.3.g.(1) (testing for non-storm water discharges), must notify the Director by October 1, 1993 or, for facilities which begin to discharge storm water associated with industrial activity after October 1, 1992, 180 days after submitting a NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated or dischargers must submit appropriate NPDES permit application forms.

B. *Monitoring Requirements.*

1. *Limitations on Monitoring Requirements.*

a. Except as required by paragraph b., only those facilities with activities specifically identified in Parts VI.B.2 (semi-annual monitoring requirements) and VI.B.3 (annual monitoring requirements) of this permit are required to conduct sampling of their storm water discharges associated with industrial activity.

b. The Director can provide written notice to any facility otherwise exempt from the sampling requirements of Parts VI.B.2 (semi-annual monitoring requirements) or VI.B.3 (annual monitoring requirements), that it shall conduct the annual discharge sampling required by Part VI.B.3.d (additional facilities), or specify an alternative monitoring frequency or specify additional parameters to be analyzed.

2. *Semi-Annual Monitoring Requirements.* During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with facilities identified in Parts VI.B.2.a through f must monitor those storm water discharges identified below at least semi-annually (2 times per year) except as provided in VI.B.5 (sampling waiver), VI.B.6 (representative discharge), and VI.C.1 (toxicity testing). Permittees with facilities identified in Parts VI.B.2.a through f (below) must report in accordance with Part VI.D (reporting: where to submit). In addition to the parameters listed below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled;

a. *Section 313 of EPCRA Facilities.* In addition to any monitoring required by Parts VI.B.2.b through f or Parts VI.B.3.a through d, facilities with storm water discharges associated with industrial activity that are subject to Section 313 of EPCRA for chemicals which are classified as 'Section 313 water priority chemicals' are required to monitor storm water that is discharged from the facility that comes into contact with any equipment, tank, container or other vessel or area used for storage of a Section 313 water priority chemical, or located at a truck or rail car loading or

unloading area where a Section 313 water priority chemical is handled for: Oil and Grease (mg/L); Five Day Biochemical Oxygen Demand (B0D5) (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (mg/L); total Kjeldahl Nitrogen (TKN) (mg/L); Total Phosphorus (mg/L); pH; acute whole effluent toxicity; and any Section 313 water priority chemical for which the facility is subject to reporting requirements under section 313 of the Emergency Planning and Community Right to Know Act of 1986.

b. *Primary Metal Industries.* Facilities with storm water discharges associated with industrial activity classified as Standard Industrial Classification (SIC) 33 (Primary Metal Industry) are required to monitor such storm water that is discharged from the facility for: oil and grease (mg/L); chemical oxygen demand (COD) (mg/L); total suspended solids (mg/L); pH; acute whole effluent toxicity; total recoverable lead (mg/L); total recoverable cadmium (mg/L); total recoverable copper (mg/L); total recoverable arsenic (mg/L); total recoverable chromium (mg/L); and any pollutant limited in an effluent guideline to which the facility is subject. Facilities that are classified as SIC 33 only because they manufacture pure silicon and/or semiconductor grade silicon are not required to monitor for total recoverable cadmium, total recoverable copper, total recoverable arsenic, total recoverable chromium or acute whole effluent toxicity, but must monitor for other parameters listed above.

c. *Land Disposal Units/Incinerators/BIFs.* Facilities with storm water discharges associated with industrial activity from any active or inactive landfill, land application sites or open dump without a stabilized final cover that has received any industrial wastes (other than wastes from a construction site); and incinerators (including Boilers and Industrial Furnaces (BIFs)) that burn hazardous waste and operate under interim status or a permit under Subtitle C of RCRA, are required to monitor such storm water that is discharged from the facility for: Magnesium (total recoverable) (mg/L), Magnesium (dissolved) (mg/L), Total Kjeldahl Nitrogen (TKN) (mg/L), Chemical Oxygen Demand (COD) (mg/L), Total Dissolved Solids (TDS) (mg/L), Total Organic Carbon (TOC) (mg/L), oil and grease (mg/L), pH, total recoverable arsenic (mg/L), Total recoverable Barium (mg/L), Total recoverable Cadmium (mg/L), Total recoverable Chromium (mg/L), Total Cyanide (mg/L), Total recoverable Lead (mg/L), Total Mercury (mg/L), Total recoverable Selenium (mg/L), Total recoverable Silver (mg/L), and acute whole effluent toxicity.

d. *Wood Treatment.* Facilities with storm water discharges associated with industrial activity from areas that are used for wood treatment, wood surface application or storage of treated or surface protected wood at any wood preserving or wood surface facilities are required to monitor such storm water that is discharged from the facility for: oil and grease (mg/L), pH, COD (mg/L), and TSS (mg/L). In addition, facilities that use chlorophenolic formulations shall measure pentachlorophenol (mg/L) and acute whole effluent toxicity; facilities which use creosote formulations shall measure acute whole effluent toxicity; and facilities that use chromium-arsenic formulations shall measure total recoverable arsenic (mg/L), total recoverable chromium (mg/L), and total recoverable copper (mg/L).

e. *Coal Pile Runoff.* Facilities with storm water discharges associated with industrial activity from coal pile runoff are required to monitor such storm water that is discharged from the facility for: oil and grease (mg/L), pH, TSS (mg/L), total recoverable copper (mg/l), total recoverable nickel (mg/l) and total recoverable zinc (mg/l).

f. *Battery Reclaimers.* Facilities with storm water discharges associated with industrial activity from areas used for storage of lead acid batteries, reclamation products, or waste products, and areas used for lead acid battery reclamation (including material handling activities) at facilities that reclaim lead acid batteries are required to monitor such storm water that is discharged from the facility for: Oil and Grease (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); pH; total recoverable copper (mg/l); and total recoverable lead (mg/l).

3. *Annual Monitoring Requirements.* During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with facilities identified in Parts VI.B.3. a through d. (below) must monitor those storm water discharges identified below at least annually (1 time per year) except as provided in VI.B.5 (sampling waiver), and VI.B.6 (representative discharge). Permittees with facilities identified in Parts VI.B.3. a through d. (below) are not required to submit monitoring results, unless required in writing by the Director. However, such permittees must retain monitoring results in accordance with Part VI.E (retention of records). In addition to the parameters listed below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled;

a. *Airports.* At airports with over 50,000 flight operations per year, facilities with storm water discharges associated with industrial activity from areas where aircraft or airport deicing operations occur (including runways, taxiways, ramps, and dedicated aircraft deicing stations) are required to monitor such storm water that is discharged from the facility when deicing activities are occurring for: Oil and Grease (mg/L); Five Day Biochemical Oxygen Demand (BOD5) (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); pH; and the primary ingredient used in the deicing materials used at the site (e.g. ethylene glycol, urea, etc.).

b. *Coal-fired Steam Electric Facilities.* Facilities with storm water discharges associated with industrial activity from coal handling sites at coal fired steam electric power generating facilities (other than discharges in whole or in part from coal piles subject to storm water effluent guidelines at 40 CFR 423—which are not eligible for coverage under this permit) are required to monitor such storm water that is discharged from the facility for: Oil and grease (mg/L), pH, TSS (mg/L), total recoverable copper (mg/l), total recoverable nickel (mg/l) and total recoverable zinc (mg/l).

c. *Animal Handling/Meat Packing.* Facilities with storm water discharges associated with industrial activity from animal handling areas, manure management (or storage) areas, and production waste management (or storage) areas that are exposed to precipitation at meat packing plants, poultry packing plants, and facilities that manufacture animal and marine fats and oils, are required to monitor such storm water that is discharged from the facility for: Five Day Biochemical Oxygen Demand (B0D5) (mg/L); oil and grease (mg/L); Total Suspended Solids (TSS) (mg/L); Total Kjeldahl Nitrogen (TKN) (mg/L); Total Phosphorus (mg/L); ph; and fecal coliform (counts per 100 mL).

d. *Additional Facilities.* Facilities with storm water discharges associated with industrial activity that:

(i) Come in contact with storage piles for solid chemicals used as raw materials that are exposed to precipitation at facilities classified as SIC 30 (Rubber and Miscellaneous Plastics Products) or SIC 28 (Chemicals and Allied Products);

(ii) Are from those areas at automobile junkyards with any of the following: (A) over 250 auto/truck bodies with drivelines (engine, transmission, axles, and wheels), 250 drivelines, or any combination thereof (in whole or in parts) are exposed to storm water; (B) over 500 auto/truck units (bodies with or without drivelines in whole or in parts) are stored exposed to storm water; or (C) over 100 units per year are dismantled and drainage or storage of automotive fluids occurs in areas exposed to storm water;

(iii) Come into contact with lime storage piles that are exposed to storm water at lime manufacturing facilities;

(iv) Are from oil handling sites at oil fired steam electric power generating facilities;

(v) Are from cement manufacturing facilities and cement kilns (other than discharges in whole or in part from material storage piles subject to storm water effluent guidelines at 40 CFR 411—which are not eligible for coverage under this permit);

(vi) Are from ready-mixed concrete facilities; or

(vii) Are from ship building and repairing facilities;

are required to monitor such storm water discharged from the facility for: Oil and Grease (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); pH; and any pollutant limited in an effluent guideline to which the facility is subject.

4. *Sample Type.* For discharges from holding ponds or other impoundments with a retention period greater than 24 hours, (estimated by dividing the volume of the detention pond by the estimated volume of water discharged during the 24 hours previous to the time that the sample is collected) a minimum of one grab sample may be taken. For all other discharges, data shall be reported for both a grab sample and a composite sample. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first thirty minutes of the discharge. If the collection of a grab sample during the first thirty minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impracticable. The composite sample shall either be flow-weighted or time-weighted. Composite samples may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Grab samples only must be collected and analyzed for the determination of pH, cyanide, whole effluent toxicity, fecal coliform, and oil and grease.

5. *Sampling Waiver.* When a discharger is unable to collect samples due to adverse climatic conditions, the discharger must submit in lieu of sampling data a description of why samples could not be collected, including available documentation of the event. Adverse weather conditions which may prohibit the collection of samples includes weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). Dischargers are precluded from exercising this waiver more than once during a two year period.

6. *Representative Discharge.* When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonable believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Permittees required to submit monitoring information under Parts VI.D.1.a, b or c of this permit shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

7. *Alternative Certification.* A discharger is not subject to the monitoring requirements of parts VI.B. 2 or 3 of this permit provided the discharger makes a certification for a given outfall, on an annual basis, under penalty of law, signed in accordance with part VII.G (signatory requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, or, in the case of airports, deicing activities, that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with part VI.D of this permit.

8. *Alternative to WET Parameter.* A discharger that is subject to the monitoring requirements of parts VI.B.2. a through d may, in lieu of monitoring for acute whole effluent toxicity, monitor for pollutants identified in Tables II and III of Appendix D of 40 CFR 122 (see Addendum A of this permit) that the discharger knows or has reason to believe are present at the facility site. Such determinations are to be based on reasonable best efforts to identify significant quantities of materials or chemicals present at the facility. Dischargers must also monitor for any additional parameter identified in parts VI.B.2. a through d.

C. *Toxicity Testing.* Permittees that are required to monitor for acute whole effluent toxicity shall initiate the series of tests described below within 180 days after the issuance of this permit or within 90 days after the commencement of a new discharge.

1. *Test Procedures.*

a. The permittee shall conduct acute 24 hour static toxicity tests on both an appropriate invertebrate and an appropriate fish (vertebrate) test species (EPA/600/4–90–027 Rev. 9/91, Section 6.1.) [2]. Freshwater species must be used for discharges to freshwater water bodies. Due to the non-saline nature of rainwater, freshwater test species should also be used for discharges to estuarine, marine or other naturally saline waterbodies.

b. All test organisms, procedures and quality assurance criteria used shall be in accordance with *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, EPA/600/4–90–027 (Rev. September 1991). EPA has proposed to establish regulations regarding these test methods (December 4, 1989, 53 *FR* 50216).

c. Tests shall be conducted semiannually (twice per year) on a grab sample of the discharge. Tests shall be conducted using 100 effluent (no dilution) and a control consisting of synthetic dilution water. Results of all tests conducted with any species shall be reported according to EPA/600/4–90–027 (Rev. September 1991), Section 12, Report Preparation, and the report submitted to EPA with the Discharge Monitoring Reports (DMR's). On the DMR, the permittee shall report "0" if there is no statistical difference between the control mortality and the effluent mortality for each dilution. If there is statistical difference (exhibits toxicity), the permittee shall report "1" on the DMR.

2. If acute whole effluent toxicity (statistically significant difference between the 100% dilution and the control) is detected on or after October 1, 1995, in storm water discharges, the permittee shall review the storm water pollution prevention plan and make appropriate modifications to assist in identifying the source(s) of toxicity and to reduce the toxicity of their storm water discharges. A summary of the review and the resulting modifications shall be provided in the plan.

D. *Reporting: Where to Submit.*

1. a. Permittees which are required to conduct sampling pursuant to Parts VI.B.2.(a) (EPCRA Section 313), and (d) (Wood Treatment facilities), shall monitor samples collected during the sampling periods running from January to June and during the sampling period from July to December. Such permittees shall submit monitoring results obtained during the reporting period running from January to December on Discharge Monitoring Report Form(s) postmarked no later than the 28th day of the following January. A separate Discharge Monitoring Report Form is required for each sampling period. The first report may include less than twelve months of information.

b. Permittees which are required to conduct sampling pursuant to Parts VI.B.2.(b) (Primary Metal facilities), (e) (Coal Pile Runoff), and (f) (Battery Reclaimers) shall monitor samples collected during the sampling period running from March to August and during the sampling period running from September to February. Such permittees shall submit monitoring results obtained during the reporting period running from April to March on Discharge Monitoring Report Form(s) postmarked no later than the 28th day of the following April. A separate Discharge Monitoring Report Form is required for each event sampling period. The first report may include less than twelve months of information.

c. Permittees which are required to conduct sampling pursuant to Parts VI.B.2.(c) (Land Disposal facilities), shall monitor samples collected during the sampling period running from October to March and during the sampling period running from April to September. Such permittees shall submit monitoring results obtained during the reporting period running from October to September on Discharge Monitoring Report Form(s) postmarked no later than the 28th day of October. A separate Discharge Monitoring Report Form is required for each sampling period. The first report may include less than twelve months of information.

d. Signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office:

1. *Massachusetts*

United States EPA, Region I—Water Management Division (WCP–2109), Storm Water Staff, John F. Kennedy Federal Building, Room 2209, Boston, MA 02203

2. *Indian lands in New York, Puerto Rico*

United States EPA, Region II—Water Management Division (2WM–WPC), Storm Water Staff, 26 Federal Plaza, New York, NY 10278

3. *District of Columbia, Federal facilities in Delaware*

United States EPA, Region III—Water Management Division (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107

4. *Florida*

United States EPA, Region IV—Water Management Division (FPB–3), Storm Water Staff, 345 Courtland Street, NE, Atlanta, GA 30365

5. *Guam, American Samoa*

United States EPA, Region IX—Water Management Division (W–5–1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

e. Permittees with facilities identified in Parts VI.B.3 (annual monitoring) are not required to submit monitoring results, unless required in writing by the Director.

2. *Additional Notification.* In addition to filing copies of discharge monitoring reports in accordance with Part VI.D.1 (reporting: where to submit), facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph VI.D.1 (reporting: where to submit). Facilities not required to report monitoring data under Part VI.B.3 (annual monitoring requirements), and facilities that are not otherwise required to monitor their discharges, need not comply with this provision.

E. *Retention of Records.* 1. The permittee shall retain the pollution prevention plan developed in accordance with Part IV (storm water pollution prevention plans) of this permit until at least one year after coverage under this permit terminates. The permittee shall retain all records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, until at least one year after coverage under this permit terminates. This period may be explicitly modified by alternative provisions of this permit (see paragraph VI.E.2 (below) of this permit) or extended by request of the Director at any time.

2. For discharges subject to sampling requirements pursuant to Part VI.B (monitoring requirements), in addition to the requirements of paragraph VI.E.1 (above), permittees are required to retain for a six year period from the data of sample collection or for the term of this permit, which ever is greater, records of all monitoring information collected during the term of this permit. Permittees must submit such monitoring results to the Director upon the requests of the Director, and submit a summary of such results as part of renotification requirements in accordance with Part II.F (renotification).

Part VIII.—Standard Permit Conditions

A. *Duty to Comply.*

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. *Penalties for Violations of Permit Conditions.*

a. *Criminal. (1). Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2). *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3). *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4). *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309(c)(4) of the Clean Water Act).

b. *Civil Penalties*—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

c. *Administrative Penalties*—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1). *Class I penalty.* Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

(2). *Class II penalty.* Not to exceed $10,000 per day for each day during which the violation continues nor shall the maximum amount exceed $125,000.

B. *Continuation of the Expired General Permit.* This permit expires on October 1, 1997. However, an expired general permit continues in force and effect until a new general permit is issued. Permittees must submit a new NOI in accordance with the requirements of Part II of this permit, using a NOI form provided by the Director (or photocopy thereof) between August 1, 1997 and September 29, 1997 to remain covered under the continued permit after October 1, 1997. Facilities that had not obtained coverage under the permit by October 1, 1997 cannot become authorized to discharge under the continued permit.

C. *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. *Duty to Provide Information.* The permittee shall furnish to the Director, within a time specified by the Director, any information which the Director may request to determine compliance with this permit. The permittee shall also furnish to the Director upon request copies of records required to be kept by this permit.

F. *Other Information.* When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

G. *Signatory Requirements.* All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director (and/or the operator of a large or medium municipal separate storm sewer system), or that this permit requires be maintained by the permittee, shall be signed.

1. All Notices of Intent shall be signed as follows: a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

c. *Changes to authorization.* If an authorization under paragraph VII.G.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new notice of intent satisfying the requirements of paragraph II.C must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. *Certification.* Any person signing documents under this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the

system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations."

H. *Penalties for Falsification of Reports.* Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both.

I. *Penalties for Falsification of Monitoring Systems.* The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in section 309 of the CWA.

J. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

K. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

L. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

M. *Requiring an Individual Permit or an Alternative General Permit.* 1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in part VI.D.1.d (reporting: where to submit) of this permit. The Director may grant additional time to submit the application upon request of the applicant. If an owner or operator fails to submit in a timely manner an individual NPDES permit application as required by the Director, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

2. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2F) with reasons supporting the request to the Director. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in Part VI.D.1.c. of this permit. The request may be granted by the issuance of any individual permit or an alternative general permit if the reasons cited by the owner or operator are adequate to support the request.

3. When an individual NPDES permit is issued to an owner or operator otherwise subject to this permit, or the owner or operator is authorized for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

N. *State/Environmental Laws.* 1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

O. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

P. *Monitoring and records.* 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of the reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 6 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

3. *Records Contents.* Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The initials or name(s) of the individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The time(s) analyses were initiated;

e. The initials or name(s) of the individual(s) who performed the analyses;

f. References and written procedures, when available, for the analytical techniques or methods used; and

g. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

4. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

Q. *Inspection and Entry.* The permittee shall allow the Director or an authorized representative of EPA, the State, or, in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

R. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

S. *Bypass of Treatment Facility.* 1. Notice:

a. Anticipated bypass. If a permittee subject to the numeric effluent limitation of Part V.A of this permit knows in advance of the need for a bypass, he or she shall submit prior notice, if possible, at least ten days before the date of the bypass; including an evaluation of the anticipated quality and effect of the pass.

b. Unanticipated bypass. The permittee subject to the numeric effluent limitation of Part V.A of this permit shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the bypass and its cause; the period of the bypass; including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

2. Prohibition of bypass: a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass. Unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee should, in the exercise of reasonable engineering judgment, have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices of the bypass.

b. The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Part VII.S.2.a.

T. *Upset Conditions.* 1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based numeric effluent limitations in Part V.A of this permit if the requirements of paragraph 2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, if final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and that the permittee can identify the specific cause(s) of the upset:

b. The permitted facility was at the time being properly operated; and

c. The permittee provided oral notice of the upset to EPA within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the upset and its cause; the period of the upset; including exact dates and times, and if the upset has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the upset.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Part VIII. Reopener Clause

A. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain individual permit or an alternative general permit in accordance with Part VII.M (requiring an individual permit or alternative general permit) of this permit or the permit may be modified to include different limitations and/or requirements.

B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

Part IX. Termination of Coverage

A. *Notice of Termination.* Where all storm water discharges associated with industrial activity that are authorized by this permit are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G (signatory requirements) of this permit. The Notice of Termination shall include the following information:

1. Name, mailing address, and location of the facility for which the notification is submitted. Where a street address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address and telephone number of the operator addressed by the Notice of Termination;

3. The NPDES permit number for the storm water discharge associated with industrial activity identified by the Notice of Termination;

4. An indication of whether the storm water discharges associated with industrial activity has been eliminated or the operator of the discharges has changed; and

5. The following certification signed in accordance with Part VII.G (signatory requirements) of this permit: "I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this notice of termination,

that I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act."

B. *Address.* All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof) [5], to the Director of the NPDES program in care of the following address: Storm Water Notice of Termination, PO Box 1185, Newington, VA 22122.

Part X. Definitions

Best Management Practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Coal pile runoff means the rainfall runoff from or through any coal storage pile.

CWA means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

Director means the Regional Administrator or an authorized representative.

Flow-weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

Land application unit means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

Large and Medium municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

NOI means notice of intent to be covered by this permit (see Part II of this permit.)

NOT means notice of termination (see Part II of this permit.)

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Section 313 water priority chemical means a chemical or chemical categories which are: (1) are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); (2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and (3) that meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria. See Addendum B of this permit.

Significant materials includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

Significant spills includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4).

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Industrial Activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of the definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery *are exposed to storm water.* For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any

[5] A copy of the approved NOT form is provided in Appendix D of this notice.

raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)–(xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan or development of sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and which are not otherwise included within categories (i)–(x)) [6].

Time-weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with the numeric effluent limitations of Part V of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Waste pile means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate "wetlands";

(c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

Part XI. State Specific Conditions

The provisions of this part provide modifications or additions to the applicable conditions of Parts I through IX of this permit. The additional revisions and requirements listed below are set forth in connection with particular State, Indian lands and

[6] On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) which do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90–70671 and 91–70200).

Federal facilities and only apply to the States and Federal facilities specifically referenced.

A. *Massachusetts.* Massachusetts 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read as follows:

Part I. Coverage Under This Permit

A. *Permit Area.* This permit covers all areas of the Commonwealth of Massachusetts.

B. *Eligibility.*

* * * * *

3. *Limitations on Coverage.*

* * * * *

h. new or increased storm water discharges to coastal water segments within Massachusetts designated as "Areas of Critical Environmental Concern (ACEC)" (for information on ACEC, please contact the Executive Office of Environmental Affairs, Coastal Zone Management at (617) 727–9530);

i. new or increased discharges, as defined at 314 CMR 4.02(19), which meet the definition of "storm water discharge," as defined at 314 CMR 3.04(2)(a)(1) or (2)(b), to Outstanding Resource Waters which have not met the provisions of 314 CMR 4.04(3) and Part III C.1 of this permit.

* * * * *

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the Federal Register notice in which this permit was published may be photocopied and used. Forms are also available by calling the Storm Water Hotline at (703) 821–4823, or the NPDES Programs Operations Section at US EPA Region 1 at (617) 565–3525. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, US EPA Region 1, MA, PO Box 1215, Newington, VA 22122.

2. A copy of the NOI for all discharges to Outstanding Resource Waters shall be submitted to the Commonwealth of Massachusetts at the following address: Massachusetts Department of Environmental Protection, Storm Water Notice of Intent, BRP–WP 43, PO Box 4062, Boston, Massachusetts 02211.

For details on filing for permits with MA DEP see 310 CMR 4.00, *Timely Action Schedule and Fee Provisions.* For other information call the MA DEP Information Services Section at (617) 338–2255 or the Technical Services Section of the DEP Division of Water Pollution Control at (508) 792–7470.

* * * * *

3. Part III of the permit is revised to read as follows:

Part III. Special Conditions

* * * * *

C. *Set Backs and Best Management Practices*

1. Storm water discharge outfall pipes to public water supplies and other Outstanding Resource Waters shall be removed and set back when dischargers are seeking to increase the discharge or change the site storm water drainage system; all new discharge outfalls must be set back from the receiving water. Receiving swales for outfall pipes shall be prepared to minimize erosion and maximize infiltration prior to discharge. The goal is to infiltrate as much as feasible; infiltration trenches and basins, filter media dikes and/or other BMPs shall be used to meet the goal. Discharges shall employ Best Management Practices (BMPs) for controlling storm water. See *Protecting Water Quality in Urban Areas* by the Minnesota Pollution Control Agency, Division of Water Quality as a reference for BMPs.

2. Storm water discharges to waters that are not classified as Outstanding Resource Waters shall be subject to the requirements of this permit. New discharge outfall pipes shall be designed to be set back from the receiving water when site conditions allow. For existing discharge outfall pipes, when the storm water drainage system is undergoing changes, outfall pipes should be set back from the receiving water. A receiving swale, infiltration trench or basin, filter media dikes or other BMPs should be prepared with the goal to minimize erosion yet maximize infiltration or otherwise improve water quality prior to discharge.

3. All discharges to Outstanding Resource Waters authorized under this permit must be provided the best practical method of treatment to protect and maintain the designated use of the outstanding resource.

B. *Puerto Rico.* Puerto Rico 401 certification special permit conditions revise the permit as follows:

1. Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region II in the Commonwealth of Puerto Rico.

* * * * *

2. Part III. Special Conditions

* * * * *

B. *Releases in Excess of Reportable Quantities.*

1.

* * * * *

c. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with paragraph III.B.1.b (above) of this permit to the appropriate EPA Regional Office at the address provided in Part VI.D.1.c (reporting: where to submit) of this permit.

* * * * *

C. *Commonwealth Special Conditions.*

1. If the construction of any treatment system of waters composed entirely of storm water is necessary, the permittee shall obtain the approval from the Environmental Quality Board (EQB) of the engineering report, plans and specifications.

2. The permittee shall operate all air pollution control equipment in compliance with the applicable provisions of the Regulation for the Control of Atmospheric Pollution, as amended, to avoid water pollution as a result of air pollution fallout.

3. The permittee shall submit to EQB with a copy to the Regional Office, the following information regarding its storm water discharge associated with industrial activity: The number of storm water discharges associated with industrial activity covered by this permit, and a drawing indicating the drainage area of each storm water discharge associated with industrial activity outfall and its respective sampling point:

a. For industrial activities that have begun on or before October 1, 1992, the permittee is required to submit the information listed above no later than November 16, 1992.

b. For industrial activities that have begun after October 1, 1992, the permittee is required to submit the information listed above within forty five (45) days of submission of the NOI.

4. The sampling point(s) for the storm water discharges associated with industrial activity shall be labeled with a 18 in. x 12 in. (minimum dimensions) sign that reads as follows: *Punto de Muestreo de Agua de Lluvia.*

3. Part IV. Storm Water Pollution Prevention Plans

* * * * *

A. *Deadlines for Plan Preparation and Compliance.*

1. Except as provided in paragraphs IV.A.3 (oil and gas operations), 4 (facilities denied or rejected from participation in a group application), 5 (special requirements) and 6 (later dates) the plan for a storm water discharge associated with industrial activity that is existing on or before October 1, 1992:

a. shall be prepared on or before April 1, 1993 (and updated as appropriate);

i. No later than April 1, 1993, the permittee shall submit to the EQB with a copy to the Regional Office, a certification stating that the Plan was *developed* in accordance with the requirements established in this permit. All certification, except those prepared by professional engineer licensed in Puerto Rico, shall be submitted with a sworn statement attesting to the professional qualifications of the individual who developed the Plan.

b. shall provide for implementation and compliance with the terms of the plan on or before October 1, 1993;

i. No later than October 1, 1993, the permittee shall submit to EQB with a copy to the Regional Office, a certification stating that the Plan was *implemented* in accordance with the conditions and requirements established in this permit. The certification should be signed by the person who fulfills the signatory requirements in accordance with Part VII.G of this permit.

2. a. The plan for any facility where industrial activity commences after October 1, 1992 shall be prepared, and except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit on or before the date 30 calendar days after the commencement of industrial activity (and updated as appropriate);

i. Within thirty (30) days of the commencement of industrial activity, the permittee shall submit to EQB with a copy to the Regional Office, a certification stating that the Plan has been *developed and implemented* in accordance with the conditions and requirements established in this permit. The certification should be signed by the person who fulfills the signatory requirements in accordance with Part VII.G of this permit.

3. The plan for storm water discharges associated with industrial activity from an oil and gas exploration, production, processing, or treatment operation or transmission facility that is not required to submit a permit application on or before October 1, 1992, in accordance with 40 CFR 122.26(c)(1)(iii), but after October 1, 1992, has a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6, shall be prepared and except as provided elsewhere in this permit, shall provide for compliance with the terms of the plan and this permit on or before the date 30 calendar days after the first knowledge of such release (and updated as appropriate);

a. Within thirty (30) days of the first knowledge of such release, the permittee shall submit to EQB with a copy to the Regional Office, a certification stating that the Plan has been *developed and implemented* in accordance with the conditions and requirements established in this permit. The certification should be signed by the person who fulfills the signatory requirements in accordance with Part VII.G of this permit.

* * * * *

C. *Keeping Plans Current.*

1. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B (above).

2. In addition to Part IV.C.1 (above), the Plan should be reviewed at least once every three (3) years to determine the need to update the Plan:

a. If no event occurs which requires the modification of the Plan, the engineer or qualified professional who performs the corresponding review must submit to EQB with a copy to the Regional Office, a certification stating the Plan has been reviewed and based upon such review no modification of the Plan has been necessary, or;

b. If events have occurred which require the modification of the Plan, the engineer or qualified professional who performs the corresponding revision must submit to EQB with a copy to the Regional Office, a certification stating the modifications performed to the Plan. As soon as the modifications performed to the Plan are implemented, the person who fulfills the signatory requirements in accordance with Part VII.G of this permit, shall submit to EQB with a copy to the Regional Office, a certification stating that the modifications of the Plan have been implemented.

c. All certification, except those prepared by a professional engineer licensed in Puerto Rico, shall be submitted with a sworn statement attesting to the professional qualifications of the individual who developed the Plan.

* * * * *

4. Part V. Numeric and Narrative Effluent Limitations

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B. *All Permittees.* The discharge(s) composed entirely of storm water shall not cause the presence of oil sheen in the receiving body of water.

C. *All Permittees.* The storm water discharges associated with industrial activity covered by this permit, will not cause violation to the applicable water quality standard in the receiving body of water.

5. Part VI. Monitoring and Reporting Requirements

* * * * *

B. *Monitoring Requirements.*

1. *Rain Gauge.*

a. All permittees with storm water discharges associated with industrial activity that have begun on or before October 1, 1992, should install a rain gauge by November 1, 1992.

b. For permittees where industrial activity has begun after October 1, 1992, the rain gauge must be installed on or before the date of submission of the NOI.

c. The permittee must keep daily records of the rain, indicating the date and amount of rainfall (inches in 24 hours). A copy of these records shall be submitted to EQB with a copy to the Regional Office, in accordance with Part VI.D (reporting: where to submit) of this permit. The reports are due the 28th day of January, April, July and October. The first report may cover less than three months and shall be attached to the Discharge Monitoring Reports (DMRs).

2. *Monitoring Requirements.* During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with facilities identified in Parts VI.B.2. a through j. must monitor those storm water discharges identified below at least *quarterly* (4 times per year) except as provided in VI.B.5 (sampling waiver), VI.B.6 (representative discharge), and VI.C.1 (toxicity testing). Permittees with facilities identified in Parts VI.B.2. a through j. (below) must report in accordance with Part VI.D (reporting: where to submit). In addition to the parameters listed below, the permittee

shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; an estimate of the size of the drainage area (in square feet); an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)); and the total volume (in gallons) of the discharge sampled.

a. *Section 313 of EPCRA Facilities.* In addition to any monitoring required by Parts VI.B.2.b through j., facilities with storm water discharges associated with industrial activity that are subject to Section 313 of EPCRA for chemicals which are classified as "Section 313 water priority chemicals" are required to monitor storm water that is discharged from the facility that comes into contact with any equipment, tank, container or other vessel or area used for storage of a Section 313 water priority chemical, or located at a truck or rail car loading or unloading area where a Section 313 water priority chemical is handled for: Oil and Grease (mg/L); Five Day Biochemical Oxygen Demand (B0D5) (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (mg/L); Total Kjeldahl Nitrogen (TKN) (mg/L); Total Phosphorus (mg/L); pH; acute whole effluent toxicity; and any Section 313 water priority chemical for which the facility is subject to reporting requirements under section 313 of the Emergency Planning and Community Right to Know Act of 1986. These facilities are not required to submit the estimate of the size of the drainage area and the estimate of the runoff coefficient of the drainage area.

* * * * *

g. *Airports.* At airports with over 50,000 flight operations per year, facilities with storm water discharges associated with industrial activity from areas where aircraft or airport deicing operations occur (including runways, taxiways, ramps, and dedicated aircraft deicing stations) are required to monitor such storm water that is discharged from the facility when deicing activities are occurring for: Oil and Grease (mg/L); Five Day Biochemical Oxygen Demand (B0D5) (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); pH; and the primary ingredient used in the deicing materials used at the site (e.g. ethylene glycol, urea, etc.).

h. *Coal-fired Steam Electric Facilities.* Facilities with storm water discharges associated with industrial activity from coal handling sites at coal fired steam electric power generating facilities (other than discharges in whole or in part from coal piles subject to storm water effluent guidelines at 40 CFR 423—which are not eligible for coverage under this permit) are required to monitor such storm water that is discharged from the facility for: Oil and grease (mg/L), pH, TSS (mg/L), total recoverable copper (mg/l), total recoverable nickel (mg/l) and total recoverable zinc (mg/l).

i. *Animal Handling/Meat Packing.* Facilities with storm water discharges associated with industrial activity from animal handling areas, manure management (or storage) areas, and production waste management (or storage) areas that are exposed to precipitation at meat packing plants, poultry packing plants, and facilities that manufacture animal and marine fats and oils, are required to monitor such storm water that is discharged from the facility for: Five Day Biochemical Oxygen Demand (B0D5) (mg/L); oil and grease (mg/L); Total Suspended Solids (TSS) (mg/L); Total Kjeldahl Nitrogen (TKN) (mg/L); Total Phosphorus (mg/L); ph; and fecal coliform (counts per 100 Ml).

j. *Additional Facilities.* Facilities with storm water discharges associated with industrial activity described below are subject to storm water monitoring requirements for the following parameters: Oil and Grease (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); pH; and any pollutant limited in an effluent guideline to which the facility is subject. Facilities include those that:

(i) come in contact with storage piles for solid chemicals used as raw materials that are exposed to precipitation at facilities classified as SIC 30 (Rubber and Miscellaneous Plastics Products) or SIC 28 (Chemicals and Allied Products);

(ii) Are from those areas at automobile junkyards with any of the following: (A) over 250 auto/truck bodies with drivelines (engine, transmission, axles, and wheels), 250 drivelines, or any combination thereof (in whole or in parts) are exposed to storm water; (B) over 500 auto/truck units (bodies with or without drivelines in whole or in parts) are stored exposed to storm water; or (C) over 100 units per year are dismantled and drainage or storage of automotive fluids occurs in areas exposed to storm water;

(iii) Come into contact with lime storage piles that are exposed to storm water at lime manufacturing facilities;

(iv) Are from oil handling sites at oil fired steam electric power generating facilities;

(v) Are from cement manufacturing facilities and cement kilns (other than discharges in whole or in part from material storage piles subject to storm water effluent guidelines at 40 CFR 411—which are not eligible for coverage under this permit);

(vi) Are from ready-mixed concrete facilities; or

(vii) Are from ship building and repairing facilities.

3. *Monitoring Requirements for All Other Industries.* During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with facilities that are not identified in Parts VI.B.2. a through j. (above) must monitor those storm water discharges at least *quarterly* (4 times per year) except as provided in VI.B.5 (sampling waiver), and VI.B.6 (representative discharge). Permittees identified in this paragraph are required to monitor such storm water discharges from the facility for: Oil and Grease (mg/L); pH; Five Day Biochemical Oxygen Demand; Biological Oxygen Demand (mg/l); Chemical Oxygen Demand (mg/l) (mg/L); Total Suspended Solids (mg/L); Total Phosphorous (mg/l); Total Kjeldahl Nitrogen (mg/l), Nitrate plus Nitrite as Nitrogen (mg/l); and any pollutant limited in an effluent limitation guideline to which the process wastewater stream at the facility is subject to. Permittees identified in this paragraph must report in accordance with Part VI.D (reporting: where to submit). In addition to the parameters listed in this paragraph, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; an estimate of the size of the drainage area (in square feet); and an estimate of the runoff coefficient of the drainage area {e.g. low (under 40%), medium (40% to 65%) or high (above 65%)}.

4. *Sample Type.* Facilities should sample the discharge during normal business hours. In the event that the discharge commences during normal business hours, the permittee shall attempt to meet the sampling requirements specified in this permit even if this requires sampling after

normal business hours. For discharges from holding ponds or other impoundments with a retention period greater than 24 hours, (estimated by dividing the volume of the detention pond by the estimated volume of water discharged during the 24 hours previous to the time that the sample is collected) a minimum of one grab sample may be taken. For all other discharges, data shall be reported for both a grab sample and a composite sample. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first thirty minutes of the discharge. If the collection of a grab sample during the first thirty minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impracticable. The composite sample shall either be flow-weighted or time-weighted. Composite samples may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Grab samples only must be collected and analyzed for the determination of pH, cyanide, whole effluent toxicity, fecal coliform, and oil and grease. The permittee must document the conditions under which the storm water samples were taken, how many manual grab samples were taken for the composite sample, and the date of sampling, and must attach this documentation to the sampling results. The permittee should attempt to meet the above protocol and collect samples beginning on the first day of the reporting period in order to ensure compliance with the specified sampling protocol and requirements.

* * * * *

7. *Alternative to WET Parameter.* A discharger that is subject to the monitoring requirements of Parts VI.B.2. a through d. may, in lieu of monitoring for acute whole effluent toxicity, monitor for pollutants identified in Tables II and III of Appendix D of 40 CFR 122 (see Addendum A of this permit) that the discharger knows or has reason to believe are present at the facility site. Such determinations are to be based on reasonable best efforts to identify significant quantities of materials or chemicals present at the facility. Dischargers must also monitor for any additional parameter identified in Parts VI.B.2. a through d.

C.

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D. *Reporting: Where to Submit.*

1.

a. Permittees which are required to conduct sampling pursuant to Parts VI.B.2. a through j., or Part VI.B.3, shall monitor samples collected during the sampling periods on a quarterly basis:

i. The first sampling period runs from October 1 through December 31;

ii. The second sampling period runs from January 1 through March 31;

iii. The third sampling period runs from April 1 through June 30; and

iv. The fourth sampling period runs from July 1 through September 30.

b. Such permittees shall submit monitoring results obtained during the reporting period on Discharge Monitoring Report Form(s) postmarked no later than the 28th day of the month following the sampling period. A separate Discharge Monitoring Report Form is required for each sampling period. The first report may cover less than three (3) months.

c. Signed copies of Discharge Monitoring Reports required, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the following address: United States EPA, Region II, Water Management Division, (2WM–WPC), Storm Water Staff, 26 Federal Plaza, New York, NY 10278.

2. *Additional Notification.* Signed copies of discharge monitoring reports required, individual permit applications and all other reports required herein, shall be submitted to the following Commonwealth Agency: Water Quality Area, P.R. Environmental Quality Board, P.O. Box 11488, Santurce, Puerto Rico 00910.

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6. Part VII. Standard Permit Conditions

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G. *Signatory Requirements.* All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or EQB (and/or the operator of a large or medium municipal separate storm sewer system), or that this permit requires be maintained by the permittee, shall be signed.

* * * * *

2. All reports required by the permit and other information requested by the Director or EQB shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

* * * * *

O. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit. Also, proper operation and maintenance includes, but is not limited, to effective performance based on designed facility removals, adequate funding, effective management, qualified operator staffing, adequate training, adequate laboratory and process controls.

* * * * *

C. *Delaware.* Delaware 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all Federal facilities administered by EPA Region 3 in the State of Delaware.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use a NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

2. A copy of all Notices of Intent (NOIs) shall be submitted to the State of

Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903.

* * * * *

3. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. *Signature and Plan Review.*

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit. A copy of the plan, as well as subsequent revisions, shall also be submitted to the State of Delaware at the following address: Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903.

* * * * *

D. *Contents of the Plan.*

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3. Measures and Controls.

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d. *Inspections.* In addition to or as part of the comprehensive site evaluation required under Part IV.4 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility. The areas where significant materials are stored shall be inspected once per month to determine the availability of significant materials to be contributed to storm water runoff. If it is determined that storm water or storm water runoff is coming in contact with significant materials, the storm water pollution prevention plan shall be amended appropriately to eliminate or reduce the exposure. Also, all structural controls shall be inspected after every rainfall event that results in runoff to confirm that these controls are operating properly. If any structural control is not operating properly, this situation shall be corrected immediately or a time frame developed for this situation. Records of all inspections, amendments to the storm water pollution prevention plan and corrective actions shall be maintained.

4. Part VI of the permit is revised to read:

Part VI. Monitoring and Reporting Requirements

* * * * *

B. *Monitoring Requirements.*

* * * * *

3. *Annual Monitoring Requirements.*

* * * * *

a. *Airports.* At airports with over 50,000 flight operations per year and at all Federal airport facilities in the State of Delaware, storm water discharges associated with industrial activity from areas where aircraft or airport deicing operations occur (including runways, taxiways, ramps, and dedicated aircraft deicing stations) are required to monitor such storm water that is discharged from the facility when deicing activities are occurring for: Oil and Grease (mg/L; Five Day Biochemical Oxygen Demand (BOD5) (mg/L); Chemical Oxygen Demand (COD) (mg/L); Total Suspended Solids (TSS) (mg/L); Ph; Total Petroleum Hydrocarbons (mg/L); and the primary ingredient used in the deicing materials used at the site (e.g. ethylene glycol, urea, etc.).

* * * * *

D. *Reporting: Where to Submit.*

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d. Signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office:

Region 3. *DE, DC, MD, PA, VA, WV,* United States EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107.

and to the State of Delaware at the following address:

Water Pollution Control Branch, NPDES Storm Water Program, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903.

D. *District of Columbia.* District of Columbia 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region 3 in the District of Columbia.

2. The following sections are added to Part III of the permit:

Part III. Special Conditions

* * * * *

C. *Applicability of District of Columbia Laws.* All Federal facility permittees covered under this permit must meet all applicable District of Columbia laws.

D. *Nitrogen and Phosphorus Removal.* The Director may notify any permittee that additional control measures are required in order to achieve the 40 percent reduction in nitrogen and phosphorus entering the main stem of the Chesapeake Bay by the year 2000, as mandated by the 1987 Chesapeake Bay Agreement.

3. Part V of the permit is revised to read:

Part V. Numeric Effluent Limitations

A. *Coal Pile Runoff.* Any discharge composed of coal pile runoff shall not exceed a maximum concentration for any time of 50 mg/l total suspended solids. Coal pile runoff shall not be diluted with storm water or other flows in order to meet this limitation. The Ph of such discharges shall be within the range of 6.0–8.5. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff which is associated with a 10 year, 24 hour rainfall event shall not be subject to the 50 mg/l limitation for total suspended solids. Failure to demonstrate compliance with these limitations as expeditiously as practicable, but in no case later than October 1, 1995, will constitute a violation of this permit.

4. Part VI of the permit is revised to read:

Part VI. Monitoring and Reporting Requirements

* * * * *

D. *Reporting: Where to Submit.*

* * * * *

1.

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d. Signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office:

3. *DE, DC, MD, PA, VA, WV:*

United States EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107.

and to the District of Columbia at the address below:

Government of the District of Columbia, Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, 2100 Martin Luther King, Jr. Avenue S.E., Washington, DC 20020.

E. *American Samoa.* American Samoa 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region IX in American Samoa.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

2. A copy of the NOI shall be submitted to American Samoa Environmental Protection Agency at the same time as submittal to the U.S. EPA.

3. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. *Signature and Plan Review.*

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit. A copy of the plan shall also be submitted to the American Samoa Environmental Protection Agency for review and approval.

F. *Guam.* Guam 401 certification special permit conditions revise the permit as follows:

1. Part I of the permit is revised to read:

Part I. Coverage Under This Permit

A. *Permit Area.* The permit covers all areas administered by EPA Region IX in Guam.

2. Part II of the permit is revised to read as follows:

Part II. Notice of Intent Requirements

* * * * *

C. *Where to Submit.*

1. Facilities which discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). The form in the **Federal Register** notice in which this permit was published may be photocopied and used. Forms are also available by calling (703) 821–4823. NOIs must be signed in accordance with Part VII.G (signatory requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent, PO Box 1215, Newington, VA 22122.

2. A copy of the NOI also shall be submitted to appropriate Government of Guam agencies and the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911

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3. Part IV of the permit is revised to read as follows:

Part IV. Storm Water Pollution Prevention Plan

* * * * *

B. *Signature and Plan Review.*

1. The plan shall be signed in accordance with Part VII.G (signatory requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (retention of records) of this permit. A copy of the plan shall also be submitted to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911.

* * * * *

4. Part VI of the permit is revised to read:

Part VI. Monitoring and Reporting Requirements

* * * * *

D. *Reporting: Where to Submit.*

1.

* * * * *

d. Signed copies of discharge monitoring reports required under Parts VI.D.1.a, VI.D.1.b, and VI.D.1.c, individual permit applications and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office: United States EPA, Region IX, Water Management Division, (W–5–1), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, and to the Guam Environmental Protection Agency at the following address: D–107 Harmon Plaza, 130 Rojas St., Harmon, Guam 95911.

* * * * *

Addendum A

Table II—Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)

Volatiles

acrolein
acrylonitrile
benzene
bromoform
carbon tetrachloride
chlorobenzene
chlorodibromomethane
chloroethane
2-chloroethylvinyl ether
chloroform
dichlorobromomethane
1,1-dichloroethane
1,2-dichloroethane
1,1-dichloroethylene
1,2-dichloropropane
1,3-dichloropropylene
ethylbenzene
methyl bromide
methyl chloride
methylene chloride
1,1,2,2-tetrachloroethane
tetrachloroethylene
toluene
1,2-trans-dichloroethylene
1,1,1-trichloroethane
1,1,2-trichloroethane
trichloroethylene
vinyl chloride

Acid Compounds

2-chlorophenol
2,4-dichlorophenol
2,4-dimethylphenol
4,6-dinitro-o-cresol
2,4-dinitrophenol
2-nitrophenol
4-nitrophenol
p-chloro-m-cresol
pentachlorophenol
phenol
2,4,6-trichlorophenol

Base/Neutral

acenaphthene
acenaphthylene
anthracene
benzidine
benzo(a)aanthracene
benzo[(a)]pyrene
3,4-benzofluoranthene
benzo(ghi)perylene
benzo(k)fluoranthene
bis(2-chloroethoxy)methane
bis(2-chloroethyl)ether
bis(2-chloroisopropyl)ether
bis(2-ethylhexyl)phthalate
4-bromophenyl phenyl ether
butylbenzyl phthalate
2-chloronaphthalene
4-chlorophenyl phenyl ether
chrysene
dibezo(a,h)anthracene
1,2-dichlorobenzene

1,3-dichlorobenzene
1,4-dichlorobenzene
3,3-dichlorobenzidine
diethyl phthalate
dimethyl phthalate
di-n-butyl phthalate
2,4-dinitrotoluene
2,6-dinitrotoluene
di-n-octyl phthalate
1,2-diphenylhydrazine (as azobenzene)
fluroranthene
fluorene
hexachlorobenzene
hexachlorobutadiene
hexachlorocyclopentadiene
hexachloroethane
indeno(1,2,3-cd)pyrene
isophorone
napthalene
nitrobenzene
N-nitrosodimethylamine
N-nitrosodi-n-propylamine
N-nitrosodiphenylamine
phenanthrene
pyrene
1,2,4-trichlorobenzene

Pesticides

aldrin
alpha-BHC
beta-BHC
gamma-BHC
delta-BHC
chlordane
4,4'-DDT
4,4'-DDE
4,4'-DDD
dieldrin
alpha-endosulfan
beta-endosulfan
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
PCB-1242
PCB-1254
PCB-1221
PCB-1232
PCB-1248
PCB-1260
PCB-1016
toxaphene

Table III—Other Toxic Pollutants (Metals and Cyanide) and Total Phenols

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Addendum C

Large and Medium Municipalities in the Non-Delegated State of Florida: Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk, and Sarasota Counties, and all incorporated municipalities, the Florida Department of Transportation, and Chapter 298 Special Districts within these counties where such entities own or operate, in whole or in part, a municipal separate storm sewer system.

Addendum B

Section 313 Water Priority Chemicals

CAS No.	Common name
75-07-0	Acetaldehyde.
75865	Acetane cynohydrin.
107-02-8	Acrolein.
107-13-1	Acrylonitrile.
309-00-2	Aldrin [1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta.,5.alpha.,8.alpha.,8a.beta.)-]
107-05-1	Allyl Chloride.
7429-90-5	Aluminum (fume or dust).
7664-41-7	Ammonia.
62-53-3	Aniline.
120-12-7	Anthracene.
7440-36-0	Antimony.
7647189	Antimony pentachloride.
28300745	Antimony potassium tartrate.
7789619	Antimony tribromide.
10025919	Antimony trichloride.
7783564	Antimony trifluoride.
1309644	Antimony trioxide.
7440-38-2	Arsenic.
1303328	Arsenic disulfide.
1303282	Arsenic pentoxide.
7784341	Arsenic trichloride.
1327533	Arsenic trioxide.
1303339	Arsenic trisulfide.
1332-21-4	Asbestos (friable).
542621	Barium cyanide.
71-43-2	Benzene.
92-87-5	Benzidine.
100470	Benzonitrile.
98-88-4	Benzoyl chloride.
100-44-7	Benzyl chloride.
7440-41-7	Beryllium.
7787475	Beryllium chloride.
7787497	Beryllium fluoride.
7787555	Beryllium nitrate.
111-44-4	Bis(2-chloroethyl) ether.
75-25-2	Bromoform.
74-83-9	Bromomethane (Methyl bromide).
85-68-7	Butyl benzyl phthalate.
7440-43-9	Cadmium.
543908	Cadmium acetate.
7789426	Cadmium bromide.
10108642	Cadmium chloride.
7778441	Calcium arsenate.
52740166	Calcium arsenite.
13765190	Calcium chromate.
592018	Calcium cyanide.
133-06-2	Captan [1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-].
63-25-2	Carbaryl [1-Naphthalenol, methylcarbamate].
75-15-0	Carbon disulfide.
56-23-5	Carbon tetrachloride.
57-74-9	Chlordane [4,7-Methanoindan,1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-].
7782-50-5	Chlorine.
59-50-7	Chloro-4-methyl-3-phenol p-Chloro-m-cresol.
108-90-7	Chlorobenzene.
75-00-3	Chloroethane (Ethyl chloride).
67-66-3	Chloroform.
74-87-3	Chloromethane (Methyl chloride).
95-57-8	2-Chlorophenol.
106-48-9	4-Chlorophenol.
1066304	Chromic acetate.
11115745	Chromic acid.
10101538	Chromic sulfate.
7440-47-3	Chromium.
1308-14-1	Chromium (Tri).
10049055	Chromous chloride.
7789437	Cobaltous bromide.
544183	Cobaltous formate.
14017415	Cobaltous sulfamate.
7440-50-8	Copper.
108-39-4	m-Cresol.
9548-7	o-Cresol.
106-44-5	p-Cresol.
1319-77-3	Cresol (mixed isomers).
142712	Cupric acetate.
12002038	Cupric acetoarsenite.
7447394	Cupric chloride.
3251238	Cupric nitrate.
5893663	Cupric oxalate.
7558987	Cupric sulfate.
10380297	Cupric sulfate, ammoniated.
815827	Cupric tartrate.
57-12-5	Cyanide.
506774	Cyanogen chloride.
110-82-7	Cyclohexane.
94-75-7	2,4-D [Acetic acid, (2,4-dichlorophenoxy)-].
106-93-4	1,2-Dibromoethane (Ethylene dibromide).
84-74-2	Dibutyl phthalate.
25321-22-6	Dichlorobenzene (mixed isomers).
95-50-1	1,2-Dichlorobenzene.
541-73-1	1,3-Dichlorobenzene.
106-46-7	1,4-Dichlorobenzene.
91-94-1	3,3'-Dichlorobenzidine.
75-27-4	Dichlorobromomethane.
107-06-2	1,2-Dichloroethane (Ethylene dichloride).
540-59-0	1,2-Dichloroethylene.
120-83-2	2,4-Dichlorophenol.
78-87-5	1,2-Dichloropropane.
542-75-6	1,3-Dichloropropylene.
62-73-7	Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester].
115-32-2	Dicofol [Benzenemethanol, 4[chloro-.alpha.-(4-chlorophenyl)-.alpha.-(trichloromethyl)-].
177-81-7	Di-(2-ethylhexyl phthalate (DEHP).
84-66-2	Diethyl phthalate.
105-67-9	2,4-Dimethylphenol.
131-11-3	Dimethyl phthalate.
534-52-1	4,6-Dinitro-o-cresol.
51-28-5	2,4-Dinitrophenol.
121-14-2	2,4-Dinitrotoluene.
606-20-2	2,6-Dinitrotoluene.
117-84-0	n-Dioctyl phthalate.
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene).
106-89-8	Epichlorohydrin.
100-41-4	Ethylbenzene.
106934	Ethylene dibromide.
50-00-0	Formaldehyde.
76-44-8	Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene].
118-74-1	Hexachlorobenzene.
87-68-3	Hexachloro-1,3-butadiene.
77-47-4	Hexachlorocyclopentadiene.
67-72-1	Hexachloroethane.
7647-01-0	Hydrochloric acid.
74-90-8	Hydrogen cyanide.
7664-39-3	Hydrogen fluoride.
7439-92-1	Lead.
301042	Lead acetate.
7784409	Lead arsenate.
7645252	Do.
10102484	Do.
7758954	Lead chloride.
13814965	Lead fluoborate.
7783462	Lead fluoride.
10101630	Lead iodide.
10099748	Lead nitrate.
7428480	Lead stearate.
1072351	Do.

CAS No.	Common name
52652592	Do.
7446142	Lead sulfate.
1314870	Lead sulfide.
592870	Lead thiocyanate.
58-89-9	Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro-(1.alpha.,3.beta.,4.alpha.,5.alpha.,-6.beta.)-].
14307358	Lithium chromate.
108-31-6	Maleic anhydride.
592041	Mercuric cyanide.
10045940	Mercuric nitrate.
7783359	Mercuric sulfate.
592858	Mercuric thiocyanate.
7782867	Mercurous nitrate.
7439-97-6	Mercury.
72-43-5	Methoxychlor [Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-].
80-62-6	Methyl methacrylate.
91-20-3	Naphthalene.
7440-02-0	Nickel.
15699180	Nickel ammonium sulfate.
37211055	Nickel chloride.
7718549	Do.
12054487	Nickel hydroxide.
14216752	Nickel nitrate.
7786814	Nickel sulfate.
7697-37-2	Nitric acid.
98-95-3	Nitrobenzene.
88-75-5	2-Nitrophenol.
100-02-7	4-Nitrophenol.
62-75-9	N-Nitrosodimethylamine.
86-30-6	N-Nitrosodiphenylamine.
621-64-7	N-Nitrosodi-n-propylamine.
56-38-2	Parathion [Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl) ester].
87-86-5	Pentachlorophenol (PCP).
108-95-2	Phenol.
75-44-5	Phosgene.
7664-38-2	Phosphoric acid.
7723-14-0	Phosphorus (yellow or white).
1336-36-3	Polychlorinated biphenyls (PCBs).
7784410	Potassium arsenate.
10124502	Potassium arsenite.
7778509	Potassium bichromate.
7789006	Potassium chromate.
151508	Potassium cyanide.
75-56-9	Propylene oxide.
91-22-5	Quinoline.
7782-49-2	Selenium.
7446084	Selenium oxide.
7440-22-4	Silver.
7761888	Silver nitrate.
7631892	Sodium arsenate.
7784465	Sodium arsenite.
10588019	Sodium bichromate.
7775113	Sodium chromate.
143339	Sodium cyanide.
10102188	Sodium selenite.
7782823	Do.
7789062	Strontium chromate.
100-42-5	Styrene.
7664-93-9	Sulfuric acid.
79-34-5	1,1,2,2-Tetrachloroethane.
127-18-4	Tetrachloroethylene (Perchloroethylene).
935-95-5	2,3,5,6-Tetrachlorophenol.
78002	Tetraethyl lead.
7440-28-0	Thallium.
10031591	Thallium sulfate.
108-88-3	Toluene.
8001-35-2	Toxaphene.
52-68-6	Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-dimethylester].
120-82-1	1,2,4-Trichlorobenzene.
71-55-6	1,1,1-Trichloroethane (Methyl chloroform).
79-00-5	1,1,2-Trichloroethane.
79-01-6	Trichloroethylene.
95-95-4	2,4,5-Trichlorophenol.
88-06-2	2,4,6-Trichlorophenol.
7440-62-2	Vanadium (fume or dust).
108-05-4	Vinyl acetate.
75-01-4	Vinyl chloride.
75-35-4	Vinylidene chloride.
108-38-3	m-Xylene.
95-47-6	o-Xylene.
106-42-3	p-Xylene.
1330-20-7	Xylene (mixed isomers).
7440-66-6	Zinc (fume or dust).
557346	Zinc acetate.
14639975	Zinc ammonium chloride
14639986	Do.
52628258	Do.
1332076	Zinc borate.
7699458	Zinc bromide.
3486359	Zinc carbonate.
7646857	Zinc chloride.
557211	Zinc cyanide.
7783495	Zinc fluoride.
557415	Zinc formate.
7779864	Zinc hydrosulfite.
7779886	Zinc nitrate.
127822	Zinc phenolsulfonate.
1314847	Zinc phosphide.
16871719	Zinc silicofluoride.
7733020	Zinc sulfate.

Addendum C

Municipalities With Large and Medium Municipal Separate Storm Sewer Systems

Delaware

New Castle County

District of Columbia

District of Columbia

Florida

Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk, and Sarasota Counties, and all incorporated municipalities, the Florida Department of Transportation, and Chapter 298 Special Districts within these counties where such entities own or operate, in whole or in part, a municipal separate storm sewer system.

New York

Buffalo, Bronx Borough, Brooklyn Borough Manhattan Borough, Queens Borough, Staten Island Borough

BILLING CODE 6560-50-M

Appendix C—Notice of Intent and Instructions

See Reverse for Instructions

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-95

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity Under the NPDES General Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with industrial activity in the State identified in Section II of this form. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Facility Operator Information

Name: Phone:

Address: Status of Owner/Operator:

City: State: ZIP Code:

II. Facility/Site Location Information

Name: Is the Facility Located on Indian Lands? (Y or N)

Address:

City: State: ZIP Code:

Latitude: Longitude: Quarter: Section: Township: Range:

III. Site Activity Information

MS4 Operator Name:

Receiving Water Body:

If You are Filing as a Co-permittee, Enter Storm Water General Permit Number: Are There Existing Quantitative Data? (Y or N) Is the Facility Required to Submit Monitoring Data? (1, 2, or 3)

SIC or Designated Activity Code: Primary: 2nd: 3rd: 4th:

If This Facility is a Member of a Group Application, Enter Group Application Number:

If You Have Other Existing NPDES Permits, Enter Permit Numbers:

IV. Additional Information Required for Construction Activities Only

Project Start Date: Completion Date: Estimated Area to be Disturbed (in Acres): Is the Storm Water Pollution Prevention Plan in Compliance with State and/or Local Sediment and Erosion Plans? (Y or N)

V. Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: Date:

Signature: _____

EPA Form 3510-6 (8-92)

Instructions - EPA Form 3510-6
Notice Of Intent (NOI) For Storm Water Discharges Associated With Industrial Activity
To Be Covered Under The NPDES General Permit

Who Must File A Notice Of Intent (NOI) Form

Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with industrial activity to a water body(ies) of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the NPDES Storm Water General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a state agency, contact the Storm Water Hotline at (703) 821-4823.

Where To File NOI Form

NOIs must be sent to the following address:

Storm Water Notice of Intent
PO Box 1215
Newington, VA 22122

Completing The Form

You must type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, call the Storm Water Hotline at (703) 821-4823.

Section I Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility.

F = Federal
S = State
M = Public (other than federal or state)
P = Private

Section II Facility/Site Location Information

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code. If the facility or site lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Indicate whether the facility is located on Indian lands.

Section III Site Activity Information

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveying storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water.

If you are filing as a co-permittee and a storm water general permit number has been issued, enter that number in the space provided.

Indicate whether or not the owner or operator of the facility has existing quantitative data that represent the characteristics and concentration of pollutants in storm water discharges.

Indicate whether the facility is required to submit monitoring data by entering one of the following:

1 = Not required to submit monitoring data;
2 = Required to submit monitoring data;
3 = Not required to submit monitoring data; submitting certification for monitoring exclusion

Those facilities that must submit monitoring data (e.g., choice 2) are: Section 313 EPCRA facilities; primary metal industries; land disposal units/incinerators/BIFs; wood treatment facilities; facilities with coal pile runoff; and, battery reclaimers.

List, in descending order of significance, up to four 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section II of this application.

For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) that do not have SIC codes that accurately describe the principal products produced or services provided, the following 2-character codes are to be used:

HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26 (b)(14)(iv)];
LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26 (b)(14)(v)];
SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26 (b)(14)(vii)];
TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26 (b)(14)(ix)]; or,
CO = Construction activities [40 CFR 122.26 (b)(14)(x)].

If the facility listed in Section II has participated in Part 1 of an approved storm water group application and a group number has been assigned, enter the group application number in the space provided.

If there are other NPDES permits presently issued for the facility or site listed in Section II, list the permit numbers. If an application for the facility has been submitted but no permit number has been assigned, enter the application number.

Section IV Additional Information Required for Construction Activities Only

Construction activities must complete Section IV in addition to Sections I through III. Only construction activities need to complete Section IV.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

Section V Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing , production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Appendix D—Notice of Termination and Instructions

Please See Instructions Before Completing This Form

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-95

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number: _____

Check Here if You are No Longer the Operator of the Facility: ☐

Check Here if the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name: _____ Phone: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

III. Facility/Site Location Information

Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Latitude: _____ Longitude: _____ Quarter: _____ Section: _____ Township: _____ Range: _____

IV. Certification: I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name: _____ Date: _____

Signature: _____

Instructions for Completing Notice of Termination (NOT) Form

Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under the EPA issued National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Dicharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26 (b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Where to File NOT Form

Send this form to the the following address:

Storm Water Notice of Termination
P.O. Box 1185
Newington, VA 22122

Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, call the Storm Water Hotline at (703) 821-4823.

PLEASE SEE REVERSE OF THIS FORM FOR FURTHER INSTRUCTIONS

EPA Form 3510-7 (8-92)

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, contact the Storm Water Hotline at (703) 821-4823.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing , production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

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September 25, 1992

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1992-93 Late Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1992-93 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This is in response to tribal requests for Service recognition of their authority to regulate hunting under established guidelines. This rule is necessary to allow establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

EFFECTIVE DATE: This rule takes effect on September 26, 1992.

ADDRESSES: Comments received on the tribal proposals and special hunting regulations are available for public inspection during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA. Communications regarding the documents should be addressed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, room 634-Arlington Square, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Morehouse, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240 (703/358-1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 7, 1992, **Federal Register** (57 FR 35446), the U.S. Fish and Wildlife Service (Service) proposed special migratory bird hunting regulations for the 1992-93 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for: (1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the March 10-September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. Tribes that desired special hunting regulations in the 1992-93 hunting season were requested in the May 8, 1992, **Federal Register** (57 FR 19863) to submit a proposal that included details on: (1) Requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located. The guidelines have been used successfully since the 1985-86 hunting season, and they were made final beginning with the 1988-89 hunting season (August 18, 1988; 53 FR 31612).

Although the August 7, 1992, proposed rule included generalized regulations for both early and late season hunting, this rulemaking addresses only the late season proposals. Early season hunting was addressed in the rulemaking published in the **Federal Register** on September 1, 1992 (57 FR 40032). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons are those that begin October 1 or later each year and have a primary emphasis on waterfowl.

Also, in the August 7, 1992, proposed rule, the Service pointed out that duck hunting regulations likely would continue to be restrictive because of little overall improvement in duck population status from last year. Hunting regulations were restrictive last year for the same reason. Recently completed production surveys on the breeding ground and the projected fall flight forecast indicate that the continental fall flight of ducks in 1992, statistically, is unchanged from the low level of last year (62 million vs. 61 million in 1992 and 1991, respectively). Thus, the established frameworks are conservative and late season duck hunting regulations are restrictive again during the 1992-93 hunting season.

Comments and Issues Concerning Tribal Proposals

For the 1992-93 migratory bird hunting season, the Service received requests from 11 tribes and/or Indian groups that followed the June 4, 1985, guidelines and are appropriate for rulemaking. Some of the proposals submitted by the tribes have both early and late season elements. However, as noted earlier, only those with late season proposals are included in this final rulemaking; all 11 tribes have proposals with late seasons.

Comments and revised proposals received since publication of the early season final rule are addressed in the following section.

Great Lakes Indian Fish and Wildlife Commission

In a letter dated August 17, 1992, the Wisconsin Department of Natural Resources (WIDNR) generally concurred "* * * with the proposals of the Great Lakes Indian Fish and Wildlife Commission except for those items noted in our letter to you of 9 July 1992. Further, we do not support the 'no daily bag' limit proposed by the Commission for the Wisconsin/Minnesota Zone. We recognize that the harvest by member tribes of the Voight Intertribal Task Force is small. However, the proposed bag limit would be inconsistent with the season recommendations of your Office of Migratory Bird Management.

"Finally, we again note that the season framework for white-fronted geese exceeds the 70 days authorized in the Mississippi Flyway. In 1991, Wisconsin was denied a season length in excess of 70 days despite the fact that our state harvest is minimal."

In the July 9, 1992, letter referenced above, the WIDNR made "no objections" to the proposed opening dates of duck and goose season but reserved the right to modify their position pending breeding ground survey results. The State also made "no objections" to the earlier woodcock opening and requested that tribal members honor the State's noon opening of the shooting hours on the first day of the State's duck season and comply with open-water hunting restrictions.

The Service's response to the concerns in the August 17 letter is as follows: The bag limit issue was resolved in the early season final rule when the Service denied the Great Lakes Indian Fish and Wildlife Commission their request, and they were held to the same bag limit as last year. With regard to the slightly longer white-fronted goose season (79 days) than the 70 days accorded Mississippi Flyway States, the Commission request was approved because it falls within the limits of the guidelines established by the Service for approving tribal migratory bird hunting regulations. Also, the Service believes that the anticipated level of harvest by tribal members will have little biological significance as concerns white-fronted goose numbers. Indeed, the State advised the Service in 1991 that nontribal hunters had harvested only 65 white-fronted geese in Wisconsin in the previous 5 years.

White Mountain Apache Tribe

In the September 1, 1992, early season final rule, the Service noted that the White Mountain Apache Tribe had revised their proposed dove season dates to be in compliance with the early season framework for Arizona. The Service has since received a letter from the Arizona Game and Fish Department (AGFD), dated August 24, 1992, that calls the Service's attention to the earlier proposed mourning dove season/framework situation. However, as indicted above, this matter has been resolved by the tribe. In the August 24, 1992, letter, the AGFD also raised the issue that the Arizona band-tailed pigeon population appears to be showing a significant decline as indicated by harvest and hunter success rate data. The AGFD expressed a concern about the apparent population trend and stated that it had reduced its season from 30 to 10 days. The AGFD noted that both the Navajo and White Mountain Tribes have 30-day band-tailed pigeon seasons but did not know if the same populations trends are occurring in these areas. The Service response is that the number of hunters reportedly hunting band-tailed pigeons and the number of birds harvested on the reservations is not very great. For example, the Navajo Nation estimates less than 100 band-tailed pigeons harvested over a season. However, the Service will initiate dialogue with both the White Mountain Apache Tribe and the Navajo Nation to attempt to determine the health of the band-tailed pigeon populations and specific harvest in their respective areas.

Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota, and the Yankton Sioux Tribe, Marty, South Dakota

In an August 24, 1992, letter to the Service, the State of South Dakota, Office of Attorney General, responded to the proposals for the Crow Creek and Yanton Sioux Tribes. In this letter, the State of South Dakota requests clarification for the tribal lands affected by the rulemaking as follows:

"Both the Crow Creek and Yankton proposals appear to apply only to lands held in trust. Assuming that this is the case, the State of South Dakota has no objection to adoption of the rule.

"Assuming, however, that any of the land affected by the rule is *not* trust land, the State objects to that part of the regulation which does affect non-trust land."

The Service's response is that the codified regulations for these two tribes contain language within the General Conditions sections that specifies the application is only to "tribal and trust lands within the external boundaries of the reservation."

It bears repeating, in the context of an overall fish and wildlife assistance and trust responsibility, that the Service deals with the tribes on a government-to-government basis. The tribes are not represented on the State-constituted Flyway Councils, which make framework and other regulatory recommendations to the Service. Migratory bird harvest by tribal members is generally insignificant, in terms of numbers. However, the tribes can and often do cooperate fully with the States in regulations established on reservation and other lands. The Service encourages the States and the tribes to cooperate with each other, and with the Service, to establish harvest regulations that are in the best interests of the migratory bird resource. The Service utilizes established guidelines for determining the reasonableness of tribal regulations requests given waterfowl population conditions in any given hunting year.

In summary, this rule amends § 20.110 of 50 CFR to make current for the late 1992–93 migratory bird hunting season the regulations that will apply on Federal Indian reservations, off-reservation trust lands and ceded lands. These regulations take into account the need to continue the reduced harvest of ducks.

Administrative Actions NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)" was filed on June 9, 1988, and a notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). In addition, an August 1985 environmental assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the service.

Nontoxic Shot Regulations

On May 13, 1991 (56 FR 22100), the Service published the final rulemaking on nontoxic shot zoning for the 1991–92 hunting season and future years. This rule, titled "Nationwide Requirement To Use Nontoxic Shot for the Taking of Waterfowl, Coots and Certain Other Species Beginning in the 1991–92 Season," provides that all of the waterfowl harvest beginning in that year will occur in nontoxic shot zones. This final rule also reminded hunters that nontoxic shot use is required in all U.S. offshore territorial waters and for the taking of captive-reared mallards on shooting preserves, in field trials and for bona fide dog training activities. All of the final hunting regulations covered by this rulemaking are in compliance with the Service's nontoxic shot requirements.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action

authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *" Consequently, the Service initiated section 7 consultation under the Endangered Species Act for the 1992–93 migratory bird hunting season regulations, which includes those that apply on Federal Indian reservations and ceded lands.

In a July 2, 1992, biological opinion, the Division of Endangered Species advised the Office of Migratory Bird Management of its conclusions that the proposed action is not likely to jeopardize either listed species or critical habitat. The Service's biological opinions resulting from its consultation under section 7 of the Endangered Species Act may be inspected by the public in either the Division of Endangered Species or the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA, or write Director/MBMO, U.S. Fish and Wildlife Service, 634 ARLSQ, Main Interior Building, Washington, DC 20240.

Regulatory Flexibility Act, Executive Orders 12291, 12612, and 12630, the Civil Justice Reform Executive Order (Executive Order 12778) and the Paperwork Reduction Act

In the May 8, 1992 **Federal Register** (57 FR 19865), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) and Executive Order 12291, "Federal Regulation," of February 17, 1981. These included preparing a Determination of Effects and revising the Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. It has been determined that this rule will not involve the taking of any property rights, as defined in Executive Order 12630, and will not have any significant federalism effects, under Executive Order 12612. These determinations are detailed in the aforementioned documents which, with other documentation, are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634—Arlington Square, Washington, DC 20240. The Department of the Interior has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778. These regulations contain no collection of information subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Memorandum of Law

The Service's Memorandum of Law, required by section 4 of Executive Order 12291, was published in the **Federal Register** on August 21, 1992 (57 FR 38202).

Authorship

The primary author of this final rule is Dr. Keith A. Morehouse, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its very nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on August 7, 1992, the Service established the longest possible period for public comments. In doing this, the Service recognized that time would be of the essence. However, the comment period provided the maximum amount of time possible while ensuring that this final rule would be published before the late hunting season beginning on September 26, 1992.

Under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), the Service prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds other than waterfowl.

Therefore, for the reasons set out above, the Service finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule will take effect on September 26, 1992.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, as amended (16 U.S.C. 703 *et seq.*).

Editorial Note: The following annual hunting regulations provided for by § 20.110 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nonmembers)

Ducks

Season Dates: Begin October 17, end November 29, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, of which: no more than 2 may be mallards (of which only 1 may be a female mallard); only 1 may be a redhead; only 1 may be a pintail; only 2 may be wood ducks; and only 1 may be a hooded merganser. The possession limit is 6, the makeup of which may be no more than twice each of the above.

Dark Geese

Canada, Brant and White-fronted Geese:

Season Dates: Begin October 10, 1992, end January 3, 1993.

Daily Bag and Possession Limits: The daily bag limit is 1 Canada goose and 1 white-fronted goose (or brant), except in Canada Goose Unit 2 the daily bag beginning November 7 may include 2 Canada geese or 1 Canada goose and 1 white-fronted goose (or brant). The possession limit is twice what is provided for in the daily bag limit.

Light Geese

Season Dates: Begin October 10, 1992, end January 3, 1993.

Daily Bag and Possession Limits: The daily bag limit is 7, and the possession limit is 14.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and nontribal hunters will comply with basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours

and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(b) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Ducks

Michigan, 1842 Treaty Zone

Season Dates: Begin October 3, end November 1, 1992.

Daily Bag Limit: The daily bag limit is 3.

Michigan, 1836 Treaty Zone

Season Dates: North Zone, begin October 3 and end November 1, 1992; Middle Zone, begin October 10 and end November 8; South Zone, begin October 17 and end November 12, 1992, then begin November 27 and end November 29, 1992.

Daily Bag Limit: The daily bag limit is 3.

Mergansers

Michigan, 1842 Treaty Zone

Season Dates: Begin October 3, end November 1, 1992.

Daily Bag Limit: The daily bag limit is 5, including no more than 1 hooded merganser.

Michigan, 1836 Treaty Zone

Season Dates: North Zone, begin October 3 and end November 1, 1992; Middle Zone, begin October 10 and end November 8, 1992; South Zone, begin October 17 and end November 12, and then begin November 27 and end November 29, 1992.

Daily Bag Limit: The daily bag limit is 5, including no more than 1 hooded merganser.

Canada Geese

Michigan, 1842 Treaty Zone

Season Dates: Begin September 26, end November 14, 1992.

Daily Bag Limit: The daily bag limit is 5.

Michigan, 1836 Treaty Zone

Season Dates: Same season dates and length selected by the State of Michigan for each zone in this area.

Daily Bag Limit: The daily bag limit is 1 or 2, depending upon the State hunting zone in which the Treaty Zone is located; see State/tribal regulations.

Other Geese (Blue, Snow, and White-fronted)

Michigan, 1842 Treaty Zone

Season Dates: Same season dates and length selected by the State of Michigan for each zone in this area.

Daily Bag Limit: The daily bag limit is 7 minus the number of Canada geese taken, including no more than 2 white-fronted.

Michigan, 1836 Treaty Zone

Season Dates: Same season dates and length selected by the State of Michigan for each zone in this area.

Daily Bag Limit: The daily bag limit is 7 minus the number of Canada geese taken, including no more than 2 white-fronted.

Coots and Common Moorhens (Gallinule)

Michigan, 1842 Treaty Zone

Season Dates: North Zone, begin October 3 and end November 1, 1992; Middle Zone, begin October 10 and end November 8, 1992; South Zone, begin October 17 and end November 12, then begin November 27 and end November 29, 1992.

Daily Bag Limit: The daily bag limit is 20, singly or in the aggregate.

Michigan, 1836 Treaty Zone

Season Dates: North Zone, begin October 3 and end November 1, 1992; Middle Zone, begin October 10 and end November 8, 1992; South Zone, begin October 17 and end November 12, then begin November 27 and end November 29, 1992.

Daily Bag Limit: The daily bag limit is 15.

General Conditions: (1) While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

(2) Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. This Model Code was the subject of the stipulation in *Lac Courte Oreilles v. State of Wisconsin* regarding migratory bird hunting. Except as modified herein, these migratory bird hunting. Except as modified herein, these amended regulations parallel Federal requirements, 50 CFR Part 20, and shooting hour regulations in 50 CFR Part 20, subpart K, as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

(3) Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

(4) Minnesota and Michigan—Duck Blinds and Decoys. Tribal members hunting in Minnesota will comply with tribal codes that contain provisions parallel to M.S. 100.29, Subd. 18 (duck blinds and decoys). Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(5) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, *unless otherwise specified.*

(6) Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with Sec. NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(c) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nonmembers)

Ducks, (Including Mergansers)

Season Dates: Begin October 3, end November 30, 1992.

Daily Bag and Possession Limits: The daily bag limit is 4, and the possession limit is 8. No canvasbacks are allowed in the bag.

Geese. The 1992–93 goose season is closed.

General Conditions. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(d) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)

Ducks

Season Dates: Begin October 1, end November 28, 1992.

Daily Bag and Possession Limits: The bag limit is 4. Of this number: no more than 1 may be a pintail; no more than 2 may be canvasbacks or 2 may be redheads, or one of each of these species; and may include up to 3 mallards, only one of which may be a female or Mexican duck. The possession limit is twice the daily bag limit for each species.

Canada Geese

Season Dates: Begin October 3, 1992, end January 3, 1993.

Daily Bag and Possession Limits: The bag limit is 2, and the possession limit is restricted to the daily bag (2).

Coots and Common Moorhens

Season Dates: Begin October 1, end November 28, 1992.

Daily Bag and Possession Limits: The daily bag limit is 25 singly or in the aggregate, and the possession limit is restricted to the daily bag limit (25).

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink cross the face. Special regulations established by the Navajo Nation also apply on the reservation.

(e) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin, Oneida, Wisconsin (Tribal Members)

Ducks

Season Dates: Begin October 3, end October 11, 1992; begin October 17, end November 6, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

General Conditions: Tribal members are required to have their tribal Identification Card and Sportsman License on their person while hunting on the reservation. Other regulations are enforced by the Oneida Conservation Department within the original reservation boundaries.

(f) Penobscot Indian Nation, Old Town, Maine (Tribal Members and Non-Tribal Hunters)

Ducks

Season Dates: (North Zone) Begin October 5, end October 23, 1992; begin November 11, end November 21, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

Geese

Canada

Season Dates: Begin October 1, end November 21, 1992; begin November 25, end December 12, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

White

Season Dates: Begin October 1, 1992, end January 15, 1993.

Daily Bag and Possession Limits: The daily bag limit is 5, and the possession limit is 10.

General Conditions: (1) When the sustenance and Maine's general waterfowl season overlap, the daily bag limit for tribal members is the smaller of the two daily bag limits.

(2) Tribal members shall comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, except that when sustenance hunting tribal members shall be permitted to hunt one-half hour before sunrise to one-half hour after sunset.

(3) Each tribal waterfowl hunter 16 years of age or over must possess and carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp), signed in ink across the face.

(4) Special regulations established by the Penobscot Indian Nation also apply in Penobscot Indian Territory.

(g) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Nontribal Members)

Ducks (Including Mergansers)

Season Dates: Begin October 3, end October 18; begin November 3, end November 29, 1992; and begin December 19, end January 3, 1993.

Daily Bag and Possession Limits: The daily bag limit is 4, and the possession limit is 8.

Coots

Season Dates: Begin October 3, end October 18; begin November 3, end November 29, 1992; and begin December 19, end January 3, 1993.

Daily Bag and Possession Limits: The daily bag limit is 25, and the possession limit is limited to the daily bag (25).

Geese

Dark

Season Dates: Begin September 28, end December 29, 1992.

Daily Bag and Possession Limits: The daily bag limit is 2, and the possession limit is 4.

White

Season dates: Begin September 28, end December 29, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

Special Exception For Geese: A special early closure for goose hunting may begin at sunset, November 29, 1992, within the following area or some portion therein: Beginning at Polson, thence north along U.S. Highway 93 to Irvine Flats Road, thence west along Irvine Flats Road to Irvine Divide, thence south along the crest of the Salish Mountains Divide to its intersection with the Ronan-Hot Springs Road, thence east to Sloan's Bridge, thence east along Sloan Road to its intersection with Round Butte Road, thence east along Round Butte Road to Valley View Road, thence north along Valley View Road to its intersection with Kerr Dam Road, thence north and east to Polson, the point of beginning. Lands outside those boundaries will close to Canada goose hunting at sunset on January 3, 1993.

General Conditions: Nontribal hunters will comply with all basic Federal migratory bird hunting regulations contained in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(h) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Members)

Ducks

Season Dates: Begin October 24, end December 21, 1992.

Daily Bag and Possession Limits: The daily bag limit is 4, and the possession limit is 8.

Mergansers

Season Dates: Begin October 24, end December 21, 1992.

Daily Bag and Possession Limits: The daily bag limit is 5, and the possession limit is 10.

Coots

Season Dates: Begin October 24, end December 21, 1992.

Daily Bag and Possession Limits: The daily bag limit is 25, and the possession limit is limited to the daily bag (25).

Geese

Season Dates: Begin October 10, 1992, end January 10, 1993.

Daily Bag and Possession Limits: The bag limit is 3 in the aggregate of all species, and the possession limit is 6.

Common Snipe

Season Dates: Begin October 24, end December 21, 1992.

Daily Bag and Possession Limits: The daily bag limit is 8, and the possession limit is 16.

General Conditions: Nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her possession a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(i) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Non-Tribal Hunters)

Ducks

Season Dates: Begin November 23, 1992, end January 20, 1993.

Daily Bag and Possession Limits: The daily bag limit is 4, and the possession limit is 8.

Coots

Season Dates: Begin November 23, 1992, end January 20, 1993.

Daily Bag and Possession Limits: The daily bag limit is 25, and the possession limit is restricted to the daily bag limit (25).

Geese

Season Dates: Begin October 17, 1992, end January 17, 1993.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

Brant

Season Dates: Begin December 2, 1992, end January 17, 1993.

Daily Bag and Possession Limits: The daily bag limit is 2, and the possession limit is 4.

Snipe

Season Dates: Begin November 14, 1992, end February 28, 1993.

Daily Bag and Possession Limits: The daily bag limit is 8, and the possession limit is 16.

General Conditions: All hunters are required to adhere to shooting hour regulations of one-half hour before sunrise to sunset, and a number of other special regulations enforced by the tribes.

(j) Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nonmembers)

Ducks, (Including Mergansers)

Season Dates: Begin November 14, 1992, end January 3, 1993.

Daily Bag and Possession Limits: The daily bag limit is 4, of which: no more than 2 may be redheads or 2 may be canvasbacks (or 1 of each); no more than 1 of which may be pintail; and no more than 3 of which may be mallards, including no more than 1 hen mallard. The possession limit is twice the daily bag limit, but may not include more than 1 daily bag limit that has been taken in any 1 day.

Coots, Moorhens and Gallinules

Season Dates: Begin November 14, 1992, end January 3, 1993.

Daily Bag and Possession limits: The daily bag limit is 25, singly or in the aggregate. The possession limit is twice the daily bag limit, but may not include more than 1 daily bag limit that has been taken in any 1 day.

Canada Geese

Season Dates: Begin November 14, 1992, end January 3, 1993.

Bag and Possession Limits: The daily bag limit is 2, and the possession limit is 4 after the first day.

General Conditions: (1) The area open to hunting in the above seasons consists of: The entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the Whiteriver, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. The remaining reservation waters will be closed to waterfowl hunting during the 1992–93 hunting.

(2) Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

(3) See other special regulations established by the White Mountain Apache Tribe that apply on the reservation, available from the reservation Game and Fish Department.

(k) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nonmembers)

Ducks, Including Mergansers

Season Dates: Low Plains South Zone, begin October 24, end December 1, 1992; Low Plains Middle Zone, begin October 10, end November 17, 1992.

Daily Bag and Possession Limits: The daily bag limit is 3, of which: No more than 2 may be mallards (only 1 of which may be a female mallard); only 1 may be a redhead; only 1 may be a pintail; only 2 may be wood ducks; and only 1 may be hooded merganser. The possession limit is 6, the makeup of which may be no more than double each of the above restrictions.

Coots

Season Dates: Low Plains South Zone, begin October 24, end December 1, 1992; Low Plains Middle Zone, begin October 10, end November 17, 1992.

Daily Bag and Possession Limits: The daily bag limit is 15, and the possession limit is 30.

Swans: The swan season and bag limits are in accordance with those set by the State of South Dakota, for both tribal and nontribal hunters.

Dark Geese (Tribal and Nontribal)

Season Dates: Begin October 3, end December 20, 1992.

Daily Bag and Possession Limits: The daily bag limit is 1 Canada goose and 1 white-fronted goose (or brant), except in Canada Goose Unit 2 the daily bag beginning November 7 may include 2 Canada geese or 1 Canada goose and 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

White Geese (Tribal and Nontribal)

Season Dates: Begin October 3, end December 20, 1992.

Daily Bag and Possession Limits: The daily bag limit is 7, and the possession limit is 14.

Special Season: For tribal and nontribal hunters, a special extended goose season will be held in the Chalk Rock Colony area of the Yankton Sioux Reservation. This season begins at the close of the regular goose season, December 21, 1992, in Goose Hunting Unit 2 and extends through January 10, 1993. Information on this special season, including bag limits and other regulations, may be obtained from the Bureau of Indian Affairs Office in Wagner, South Dakota.

General Conditions: (1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl

hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

Dated: September 17, 1992.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-23309 Filed 9-24-92; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
September 25, 1992

Part VI

Department of Education

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, Education.

ACTION: Notice of meeting by conference call.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming conference call meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: September 25, 1992 at 12 Noon CDT.

ADDRESSES: Ameritech International, 10 South Wacker, Floor 21, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: John Florez, Executive Director, White House Initiative on Educational Excellence for Hispanic Americans, U.S. Department of Education, Washington, DC 20202–7588. Telephone: (202) 205–2420.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Educational Excellence for Hispanic Americans is established under Executive Order 12729.

The Commission is established to advise the Secretary of Education on the educational status of Hispanic Americans, including the progress of Hispanic Americans towards achievement of the national educational goals, and on Federal efforts to promote quality education for Hispanic Americans.

On September 25th, the Commission will meet by conference call to discuss and take a vote on their progress report.

Records are kept of all Commission proceedings, and are available for public inspection at the Office of the White House Initiative on Educational Excellence for Hispanic Americans, 400 Maryland Avenue, SW., Washington, DC 20202–7588 from the hours of 8:30 am to 5 pm.

Dated: September 23, 1992.

Daniel Bonner,

Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92–23529 Filed 9–24–92; 8:45 am]

BILLING CODE 4000–01–M

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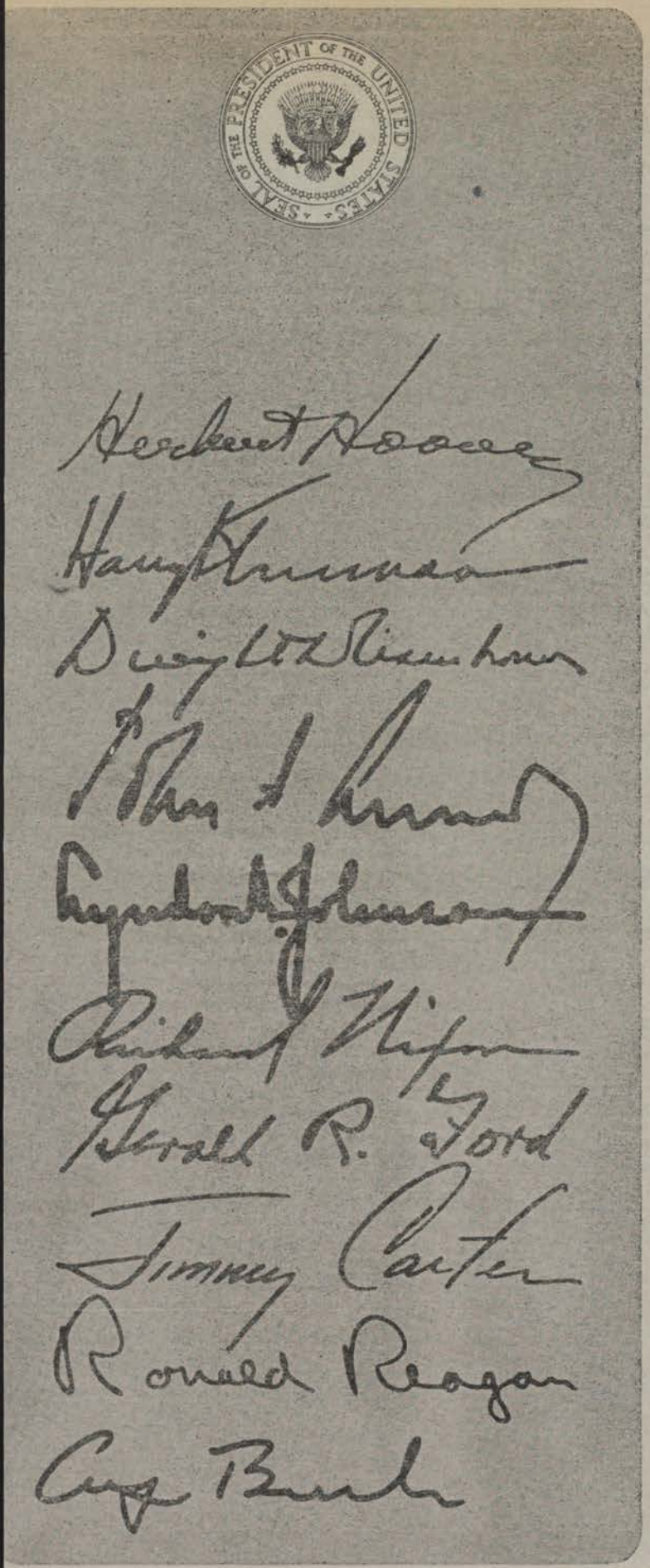
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List September 11, 1992



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102d Congress, 2nd Session, 1992

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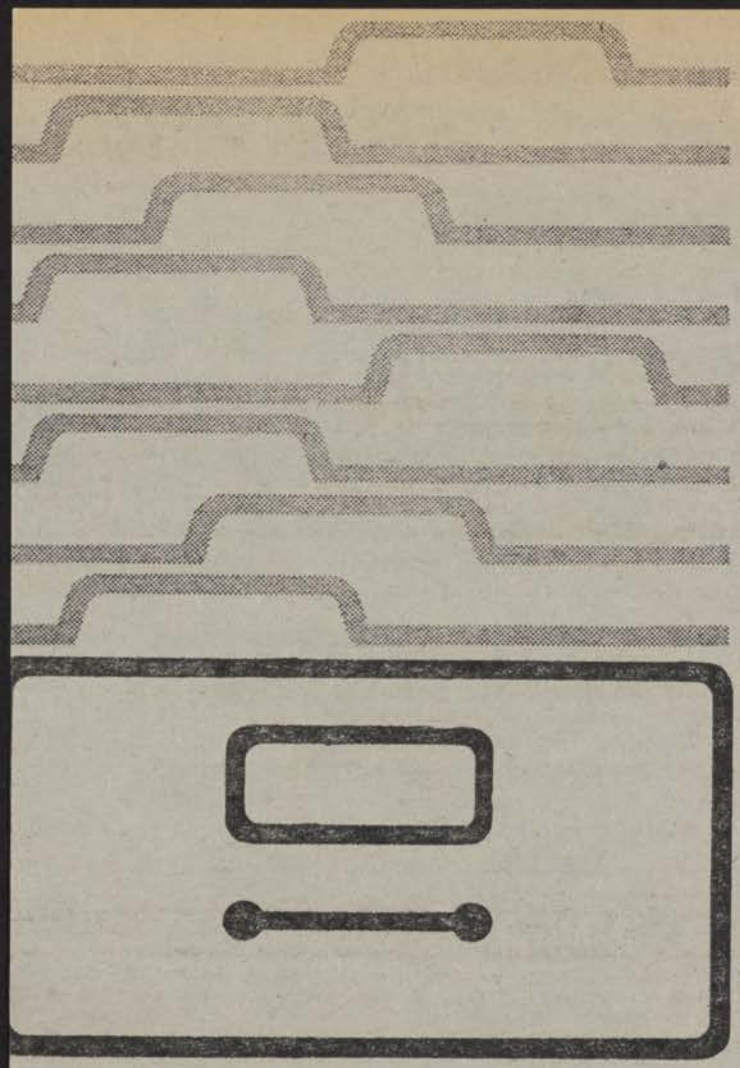

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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

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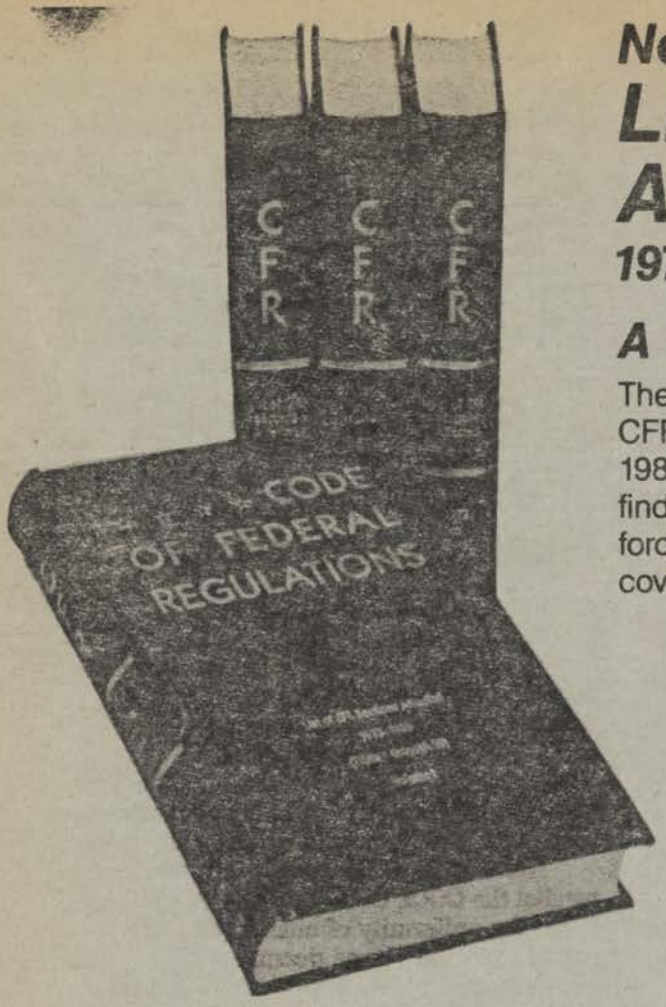

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